

1 temporary protective service ~~under this paragraph if it finds that there is probable~~
2 ~~cause to believe that the allegations under s. 880.07 (1m) (e) and (cm) apply, that the~~
3 ~~individual is not competent to refuse psychotropic medication and that the~~
4 ~~medication ordered will have therapeutic value and will not unreasonably impair the~~
5 ~~ability of the individual to prepare for and participate in subsequent legal~~
6 ~~proceedings. An individual is not competent to refuse psychotropic medication if,~~
7 ~~because of chronic mental illness, and after the advantages and disadvantages of and~~
8 ~~alternatives to accepting the particular psychotropic medication have been~~
9 ~~explained to the individual, one of the following is true: only under the requirements~~
10 ~~of s. 55.14.~~

History: 1975 c. 430; 1977 c. 26, 29; 1977 c. 187 ss. 42, 43, 134, 135; 1977 c. 428 ss. 29 to 65, 115; 1977 c. 447, 449; Sup. Ct. Order, 83 Wis. 2d xiii; 1979 c. 32, 89; Sup. Ct. Order, eff. 1-1-80; 1979 c. 110 s. 60 (1); 1979 c. 175 s. 53; 1979 c. 300, 336, 356; 1981 c. 20, 367; 1981 c. 390 s. 252; 1983 a. 27, 219; 1983 a. 474 ss. 2 to 9m, 14; 1985 a. 29 ss. 1067 to 1071, 3200 (56), 3202 (56); 1985 a. 139, 176, 321, 332; 1987 a. 27; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 366, 394, 403; 1989 a. 31, 334; 1993 a. 98, 196, 227, 316, 451, 474; 1995 a. 77, 201, 268, 292, 440; Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997); 1997 a. 35, 130, 237, 283; 1999 a. 83, 89, 162; 2001 a. 16 ss. 1966i to 1966n, 4034ze to 4034zh; 2001 a. 38, 61, 109; 2003 a. 33, 50, 326.

11 **SECTION 41.** 51.20 (7) (d) 1. a. of the statutes is repealed.

12 **SECTION 42.** 51.20 (7) (d) 1. b. of the statutes is repealed.

****NOTE: Is s. 51.20 (7) (d) 1., stats., drafted as you wish? The Legislative Council
draft (WLC: 0220/1) does not address this provision.

INSERT 9-12E

13 **SECTION 43.** 51.30 (4) (b) 18. a. of the statutes is amended to read:

14 51.30 (4) (b) 18. a. In this subdivision, "abuse" has the meaning given in s. 51.62
15 (1) (ag); "neglect" has the meaning given in s. 51.62 (1) (br); and "parent" has the
16 meaning given in s. 48.02 (13), except that "parent" does not include the parent of a
17 minor whose custody is transferred to a legal custodian, as defined in s. 48.02 (11),
18 or for whom a guardian is appointed under s. 54.10 or s. 880.33, 2003 stats.

History: 1975 c. 430; 1977 c. 26 s. 75; 1977 c. 61, 428; 1979 c. 110 s. 60 (1); 1983 a. 27, 292, 398, 538; 1985 a. 29, 176; 1985 a. 292 s. 3; 1985 a. 332 ss. 97, 98, 251 (1); 1987 a. 352, 355, 362, 367, 399, 403; 1989 a. 31, 334, 336; 1991 a. 39, 189; 1993 a. 196, 445, 479; 1995 a. 169, 440; 1997 a. 35, 231, 237, 283, 292; 1999 a. 32, 78, 79, 109; 2001 a. 16, 38.

19 **SECTION 44.** 51.30 (4) (b) 18. c. of the statutes is amended to read:

1 51.30 (4) (b) 18. c. If the patient, regardless of age, has a guardian appointed
2 under s. 54.10 or s. 880.33, 2003 stats., or if the patient is a minor with developmental
3 disability who has a parent or has a guardian appointed under s. 48.831 and does not
4 have a guardian appointed under s. 54.10 or s. 880.33, 2003 stats., information
5 concerning the patient that is obtainable by staff members of the agency or nonprofit
6 corporation with which the agency has contracted is limited, except as provided in
7 subd. 18. e., to the nature of an alleged rights violation, if any; the name, birth date
8 and county of residence of the patient; information regarding whether the patient
9 was voluntarily admitted, involuntarily committed or protectively placed and the
10 date and place of admission, placement or commitment; and the name, address and
11 telephone number of the guardian of the patient and the date and place of the
12 guardian's appointment or, if the patient is a minor with developmental disability
13 who has a parent or has a guardian appointed under s. 48.831 and does not have a
14 guardian appointed under s. 54.10 or s. 880.33, 2003 stats., the name, address and
15 telephone number of the parent or guardian appointed under s. 48.831 of the patient.

History: 1975 c. 430; 1977 c. 26 s. 75; 1977 c. 61, 428; 1979 c. 110 s. 60 (1); 1983 a. 27, 292, 398, 538; 1985 a. 29, 176; 1985 a. 292 s. 3; 1985 a. 332 ss. 97, 98, 251 (1);
1987 a. 352, 355, 362, 367, 399, 403; 1989 a. 31, 334, 336; 1991 a. 39, 189; 1993 a. 196, 445, 479; 1995 a. 169, 440; 1997 a. 35, 231, 237, 283, 292; 1999 a. 32, 78, 79, 109;
2001 a. 16, 38.

16 **SECTION 45.** 51.30 (4) (b) 20. (intro.) of the statutes is amended to read:

17 51.30 (4) (b) 20. (intro.) Except with respect to the treatment records of a
18 subject individual who is receiving or has received services for alcoholism or drug
19 dependence, to the spouse, parent, adult child or sibling of a subject individual, if the
20 spouse, parent, adult child or sibling is directly involved in providing care to or
21 monitoring the treatment of the subject individual and if the involvement is verified
22 by the subject individual's physician, psychologist or by a person other than the
23 spouse, parent, adult child or sibling who is responsible for providing treatment to
24 the subject individual, in order to assist in the provision of care or monitoring of

1 treatment. Except in an emergency as determined by the person verifying the
2 involvement of the spouse, parent, adult child or sibling, the request for treatment
3 records under this subdivision shall be in writing, by the requester. Unless the
4 subject individual has been ~~adjudged~~ adjudicated incompetent ~~under ch. 880~~ [✓] in this
5 state, the person verifying the involvement of the spouse, parent, adult child or
6 sibling shall notify the subject individual about the release of his or her treatment
7 records under this subdivision. Treatment records released under this subdivision
8 are limited to the following:

History: 1975 c. 430; 1977 c. 26 s. 75; 1977 c. 61, 428; 1979 c. 110 s. 60 (1); 1983 a. 27, 292, 398, 538; 1985 a. 29, 176; 1985 a. 292 s. 3; 1985 a. 332 ss. 97, 98, 251 (1); 1987 a. 352, 355, 362, 367, 399, 403; 1989 a. 31, 334, 336; 1991 a. 39, 189; 1993 a. 196, 445, 479; 1995 a. 169, 440; 1997 a. 35, 231, 237, 283, 292; 1999 a. 32, 78, 79, 109; 2001 a. 16, 38.

9 **SECTION 46.** 51.30 (4) (dm) 2. of the statutes is amended to read:

10 51.30 (4) (dm) 2. Conceal or withhold a treatment record with intent to prevent
11 its release to the subject individual under par. (d), to his or her guardian ~~appointed~~
12 ~~under ch. 880~~ [✓], or to persons with the informed written consent of the subject
13 individual or with intent to prevent or obstruct an investigation or prosecution.

History: 1975 c. 430; 1977 c. 26 s. 75; 1977 c. 61, 428; 1979 c. 110 s. 60 (1); 1983 a. 27, 292, 398, 538; 1985 a. 29, 176; 1985 a. 292 s. 3; 1985 a. 332 ss. 97, 98, 251 (1); 1987 a. 352, 355, 362, 367, 399, 403; 1989 a. 31, 334, 336; 1991 a. 39, 189; 1993 a. 196, 445, 479; 1995 a. 169, 440; 1997 a. 35, 231, 237, 283, 292; 1999 a. 32, 78, 79, 109; 2001 a. 16, 38.

14 **SECTION 47.** 51.30 (4) (f) of the statutes is amended to read:

15 51.30 (4) (f) *Correction of information.* A subject individual, ~~or~~ the parent,
16 guardian, or person in the place of a parent of a minor, or the guardian of an
17 individual adjudicated incompetent may, after having gained access to treatment
18 records, challenge the accuracy, completeness, timeliness, or relevance of factual
19 information in his or her treatment records and request in writing that the facility
20 maintaining the record correct the challenged information. ~~Such~~ The request shall
21 be granted or denied within 30 days by the director of the treatment facility, the
22 director of the county department under s. 51.42 or 51.437, or the secretary
23 depending upon which person has custody of the record. Reasons for denial of the

requested changes shall be given by the responsible officer and the individual shall be informed of any applicable grievance procedure or court review procedure. If the request is denied, the individual, parent, guardian, or person in the place of a parent shall be allowed to insert into the record a statement correcting or amending the information at issue. The statement shall become a part of the record and shall be released whenever the information at issue is released.

History: 1975 c. 430; 1977 c. 26 s. 75; 1977 c. 61, 428; 1979 c. 110 s. 60 (1); 1983 a. 27, 292, 398, 538; 1985 a. 29, 176; 1985 a. 292 s. 3; 1985 a. 332 ss. 97, 98, 251 (1); 1987 a. 352, 355, 362, 367, 399, 403; 1989 a. 31, 334, 336; 1991 a. 39, 189; 1993 a. 196, 445, 479; 1995 a. 169, 440; 1997 a. 35, 231, 237, 283, 292; 1999 a. 32, 78, 79, 109; 2001 a. 16, 38.

SECTION 48. 51.30 (5) (a) of the statutes is amended to read:

51.30 (5) (a) *Consent for release of information.* The parent, guardian, or person in the place of a parent of a minor or the guardian of an adult ~~adjudged~~ adjudicated incompetent ~~under ch. 880 in this state~~ [✓] in this state may consent to the release of confidential information in court or treatment records. A minor who is aged 14 or more may consent to the release of confidential information in court or treatment records without the consent of the minor's parent, guardian or person in the place of a parent. Consent under this paragraph must conform to the requirements of sub. (2).

History: 1975 c. 430; 1977 c. 26 s. 75; 1977 c. 61, 428; 1979 c. 110 s. 60 (1); 1983 a. 27, 292, 398, 538; 1985 a. 29, 176; 1985 a. 292 s. 3; 1985 a. 332 ss. 97, 98, 251 (1); 1987 a. 352, 355, 362, 367, 399, 403; 1989 a. 31, 334, 336; 1991 a. 39, 189; 1993 a. 196, 445, 479; 1995 a. 169, 440; 1997 a. 35, 231, 237, 283, 292; 1999 a. 32, 78, 79, 109; 2001 a. 16, 38.

SECTION 49. 51.30 (5) (b) 1. of the statutes is amended to read:

51.30 (5) (b) 1. The guardian of an individual who is ~~adjudged~~ adjudicated incompetent ~~under ch. 880 in this state~~ [✓] in this state shall have access to the individual's court and treatment records at all times. The parent, guardian or person in the place of a parent of a developmentally disabled minor shall have access to the minor's court and treatment records at all times except in the case of a minor aged 14 or older who files a written objection to such access with the custodian of the records. The parent,

guardian or person in the place of a parent of other minors shall have the same rights of access as provided to subject individuals under this section.

History: 1975 c. 430; 1977 c. 26 s. 75; 1977 c. 61, 428; 1979 c. 110 s. 60 (1); 1983 a. 27, 292, 398, 538; 1985 a. 29, 176; 1985 a. 292 s. 3; 1985 a. 332 ss. 97, 98, 251 (1); 1987 a. 352, 355, 362, 367, 399, 403; 1989 a. 31, 334, 336; 1991 a. 39, 189; 1993 a. 196, 445, 479; 1995 a. 169, 440; 1997 a. 35, 231, 237, 283, 292; 1999 a. 32, 78, 79, 109; 2001 a. 16, 38.

SECTION 50. 51.30 (5) (e) of the statutes is amended to read:

51.30 (5) (e) *Temporary guardian for adult* alleged to be incompetent. If an adult is alleged believed to be incompetent, under the requirements of s. 54.10 (3), to consent to the release of records under this section, but no guardian has been appointed for such the individual, consent for the release of records may be given by a temporary guardian who is appointed for the purpose of deciding upon the release of records.

History: 1975 c. 430; 1977 c. 26 s. 75; 1977 c. 61, 428; 1979 c. 110 s. 60 (1); 1983 a. 27, 292, 398, 538; 1985 a. 29, 176; 1985 a. 292 s. 3; 1985 a. 332 ss. 97, 98, 251 (1); 1987 a. 352, 355, 362, 367, 399, 403; 1989 a. 31, 334, 336; 1991 a. 39, 189; 1993 a. 196, 445, 479; 1995 a. 169, 440; 1997 a. 35, 231, 237, 283, 292; 1999 a. 32, 78, 79, 109; 2001 a. 16, 38.

***NOTE: Should mention of this provision be made under s. 54.50? Yes.

SECTION 51. 51.35 (7) of the statutes is amended to read:

51.35 (7) GUARDIANSHIP AND PROTECTIVE SERVICES. Prior to discharge from any state treatment facility, the department shall review the possible need of a developmentally disabled individual, aged infirm individual, or ~~person~~ individual with other like incapacities for protective services or protective placement under ch. 55 after discharge, including the necessity for appointment of a guardian ~~or limited guardian~~. The department shall petition for ~~limited or full~~ guardianship, or for protective services or protective placement for the person if needed. When the department makes a petition for guardianship under this subsection, it shall not be appointed as guardian.

INSERT 9-12G

History: 1975 c. 430 ss. 18, 81; 1977 c. 26, 29, 428; 1979 c. 110 s. 60 (1); 1981 c. 74 s. 2; 1981 c. 314 s. 144; 1983 a. 27, 441, 474; 1985 a. 29, 176, 332; 1987 a. 366, 403; 1989 a. 31, 56, 107; 1991 a. 39; 1993 a. 451; 1995 a. 27 ss. 3258m, 3259m, 9126 (19); 1995 a. 77, 292; 1997 a. 35; 1999 a. 9; 2001 a. 16 ss. 1967f to 1967j, 4034zi; 2003 a. 33.

SECTION 52. 51.40 (1) (f) of the statutes is amended to read:

51.40 (1) (f) "Guardian" means a guardian of the person appointed by a court under ch. 54 or ch. 880, 2003 stats.

History: 1987 a. 27; 1989 a. 31, 359; 1995 a. 27 s. 9126 (19).

SECTION 53. 51.40 (1) (g) 1. of the statutes is amended to read:

51.40 (1) (g) 1. The status of an individual who has had a guardian appointed under ch. 880, unless the court made a specific finding under s. 880.33 (3) that the individual is competent to make an informed choice of a place to live.

History: 1987 a. 27; 1989 a. 31, 359; 1995 a. 27 s. 9126 (19).

****NOTE: Section 880.33 (3) is repealed in the bill. Is this provision amended as you wish?

INSERT 9-12 I

SECTION 54. 51.45 (2) (e) of the statutes is amended to read:

51.45 (2) (e) "Incompetent person" means a person who has been adjudged incompetent by the circuit court, as defined in s. 54.01 (4).

History: 1973 c. 198; 1975 c. 200, 428; 1975 c. 430 s. 80; 1977 c. 29; 1977 c. 187 ss. 44, 134, 135; 1977 c. 203 s. 106; 1977 c. 428; 1977 c. 449 s. 497; Sup. Ct. Order, 83 Wis. 2d xiii (1987); 1979 c. 32 s. 92 (11); Sup. Ct. Order, eff. 1-1-80; 1979 c. 221 ss. 417, 2200 (20); 1979 c. 300, 331, 356; 1981 c. 20; 1981 c. 79 s. 17; 1981 c. 289, 314; 1983 a. 27 ss. 1116 to 1121, 2202 (20); 1985 a. 29 s. 3202 (56); 1985 a. 139; 1985 a. 176 ss. 533 to 556, 615; 1985 a. 265; 1985 a. 332 s. 251 (1); 1987 a. 339, 366; 1989 a. 31, 336, 359; 1991 a. 39; 1993 a. 16, 27, 213, 451, 490; 1995 a. 27 ss. 3268, 3269, 9145 (1); 1995 a. 77, 225; 1997 a. 27, 35, 237; 1999 a. 9; 2001 a. 61.

****NOTE: Please see the ****NOTE under s. 40.08 (9m), stats. Is this provision drafted as you wish?

SECTION 55. 51.45 (10) (a) of the statutes is amended to read:

51.45 (10) (a) An adult alcoholic may apply for voluntary treatment directly to an approved public treatment facility. If the proposed patient is an individual adjudicated incompetent person in this state who has not been deprived by a court of the right to contract under subch. I of ch. 880, the person individual or a legal his or her guardian or other legal representative may make the application. If the proposed patient is an individual adjudicated incompetent person in this state who has been deprived by a court of the right to contract under subch. I of ch. 880, a legal, the individual's guardian or other legal representative may make the application.

History: 1973 c. 198; 1975 c. 200, 428; 1975 c. 430 s. 80; 1977 c. 29; 1977 c. 187 ss. 44, 134, 135; 1977 c. 203 s. 106; 1977 c. 428; 1977 c. 449 s. 497; Sup. Ct. Order, 83 Wis. 2d xiii (1987); 1979 c. 32 s. 92 (11); Sup. Ct. Order, eff. 1-1-80; 1979 c. 221 ss. 417, 2200 (20); 1979 c. 300, 331, 356; 1981 c. 20; 1981 c. 79 s. 17; 1981 c. 289, 314; 1983 a. 27 ss. 1116 to 1121, 2202 (20); 1985 a. 29 s. 3202 (56); 1985 a. 139; 1985 a. 176 ss. 533 to 556, 615; 1985 a. 265; 1985 a. 332 s. 251 (1); 1987 a. 339, 366; 1989 a. 31, 336, 359; 1991 a. 39; 1993 a. 16, 27, 213, 451, 490; 1995 a. 27 ss. 3268, 3269, 9145 (1); 1995 a. 77, 225; 1997 a. 27, 35, 237; 1999 a. 9; 2001 a. 61.

SECTION 56. 51.45 (10) (c) of the statutes is amended to read:

51.45 (10) (c) If a patient receiving inpatient care leaves an approved public treatment facility, the patient shall be encouraged to consent to appropriate outpatient or intermediate treatment. If it appears to the superintendent in charge

1 of the treatment facility that the patient is an alcoholic or intoxicated person who
2 requires help, the county department shall arrange for assistance in obtaining
3 supportive services and residential facilities. If the patient is an individual who is
4 adjudicated incompetent person, the request for discharge from an inpatient facility
5 shall be made by a legal guardian or other legal representative or by the individual
6 who is adjudicated incompetent if he or she was the original applicant.

History: 1973 c. 198; 1975 c. 200, 428; 1975 c. 430 s. 80; 1977 c. 29; 1977 c. 187 ss. 44, 134, 135; 1977 c. 203 s. 106; 1977 c. 428; 1977 c. 449 s. 497; Sup. Ct. Order, 83 Wis. 2d xiii (1987); 1979 c. 32 s. 92 (11); Sup. Ct. Order, eff. 1-1-80; 1979 c. 221 ss. 417, 2200 (20); 1979 c. 300, 331, 356; 1981 c. 20; 1981 c. 79 s. 17; 1981 c. 289, 314; 1983 a. 27 ss. 1116 to 1121, 2202 (20); 1985 a. 29 s. 3202 (56); 1985 a. 139; 1985 a. 176 ss. 533 to 556, 615; 1985 a. 265; 1985 a. 332 s. 251 (1); 1987 a. 339, 366; 1989 a. 31, 336, 359; 1991 a. 39; 1993 a. 16, 27, 213, 451, 490; 1995 a. 27 ss. 3268, 3269, 9145 (1); 1995 a. 77, 225; 1997 a. 27, 35, 237; 1999 a. 9; 2001 a. 61.

****NOTE: Is this provision, as amended, correct, i.e., may the request be made by
an individual who is adjudicated incompetent? *ok*

7 **SECTION 57.** 51.45 (13) (c) of the statutes is amended to read:

8 51.45 (13) (c) Effective and timely notice of the preliminary hearing, together
9 with a copy of the petition and supporting affidavits under par. (a), shall be given to
10 the person unless he or she has been taken into custody under par. (b), the ~~spouse~~
11 ~~or~~ [✓] legal guardian if the person is adjudicated incompetent, the person's counsel, and
12 the petitioner. The notice shall include a written statement of the person's right to
13 an attorney, the right to trial by jury, the right to be examined by a physician, and
14 the standard under which he or she may be committed under this section. If the
15 person is taken into custody under par. (b), upon arrival at the approved public
16 treatment facility, the person shall be advised both orally and in writing of the right
17 to counsel, the right to consult with counsel before a request is made to undergo
18 voluntary treatment under sub. (10), the right not to converse with examining
19 physicians, psychologists or other personnel, the fact that anything said to
20 examining physicians, psychologists or other personnel may be used as evidence
21 against him or her at subsequent hearings under this section, the right to refuse
22 medication under s. 51.61 (6), the exact time and place of the preliminary hearing

1 under par. (d), the right to trial by jury, the right to be examined by a physician and
2 of the reasons for detention, and the standards under which he or she may be
3 committed prior to all interviews with physicians, psychologists, or other personnel.
4 Such notice of rights shall be provided to the person's immediate family if they can
5 be located and may be deferred until the person's incapacitated condition, if any, has
6 subsided to the point where the person is capable of understanding the notice. Under
7 no circumstances may interviews with physicians, psychologists, or other personnel
8 be conducted until such notice is given, except that the person may be questioned to
9 determine immediate medical needs. The person may be detained at the facility to
10 which he or she was admitted or, upon notice to the attorney and the court,
11 transferred by the county department to another appropriate public or private
12 treatment facility, until discharged under this subsection. A copy of the petition and
13 all supporting affidavits shall be given to the person at the time notice of rights is
14 given under this paragraph by the superintendent, who shall provide a reasonable
15 opportunity for the patient to consult counsel.

History: 1973 c. 198; 1975 c. 200, 428; 1975 c. 430 s. 80; 1977 c. 29; 1977 c. 187 ss. 44, 134, 135; 1977 c. 203 s. 106; 1977 c. 428; 1977 c. 449 s. 497; Sup. Ct. Order, 83 Wis. 2d xiii (1987); 1979 c. 32 s. 92 (11); Sup. Ct. Order, eff. 1-1-80; 1979 c. 221 ss. 417, 2200 (20); 1979 c. 300, 331, 356; 1981 c. 20; 1981 c. 79 s. 17; 1981 c. 289, 314; 1983 a. 27 ss. 1116 to 1121, 2202 (20); 1985 a. 29 s. 3202 (56); 1985 a. 139; 1985 a. 176 ss. 533 to 556, 615; 1985 a. 265; 1985 a. 332 s. 251 (1); 1987 a. 339, 366; 1989 a. 31, 336, 359; 1991 a. 39; 1993 a. 16, 27, 213, 451, 490; 1995 a. 27 ss. 3268, 3269, 9145 (1); 1995 a. 77, 225; 1997 a. 27, 35, 237; 1999 a. 9; 2001 a. 61.

16 **SECTION 58. 51.45 (13) (e) of the statutes is amended to read:**

17 51.45 (13) (e) Upon a finding of probable cause under par. (d), the court shall
18 fix a date for a full hearing to be held within 14 days. An extension of not more than
19 14 days may be granted upon motion of the person sought to be committed upon a
20 showing of cause. Effective and timely notice of the full hearing, the right to counsel,
21 the right to jury trial, and the standards under which the person may be committed
22 shall be given to the person, the immediate family other than a petitioner under par.
23 (a) or sub. (12) (b) if they can be located, the [✓]spouse or legal guardian if the person

is adjudicated incompetent, the superintendent in charge of the appropriate approved public treatment facility if the person has been temporarily committed under par. (b) or sub. (12), the person's counsel, unless waived, and to the petitioner under par. (a). Counsel, or the person if counsel is waived, shall have access to all reports and records, psychiatric and otherwise, which have been made prior to the full hearing on commitment, and shall be given the names of all persons who may testify in favor of commitment and a summary of their proposed testimony at least 96 hours before the full hearing, exclusive of Saturdays, Sundays and legal holidays.

History: 1973 c. 198; 1975 c. 200, 428; 1975 c. 430 s. 80; 1977 c. 29; 1977 c. 187 ss. 44, 134, 135; 1977 c. 203 s. 106; 1977 c. 428; 1977 c. 449 s. 497; Sup. Ct. Order, 83 Wis. 2d xiii (1987); 1979 c. 32 s. 92 (11); Sup. Ct. Order, eff. 1-1-80; 1979 c. 221 ss. 417, 2200 (20); 1979 c. 300, 331, 356; 1981 c. 20; 1981 c. 79 s. 17; 1981 c. 289, 314; 1983 a. 27 ss. 1116 to 1121, 2202 (20); 1985 a. 29 s. 3202 (56); 1985 a. 139; 1985 a. 176 ss. 533 to 556, 615; 1985 a. 265; 1985 a. 332 s. 251 (1); 1987 a. 339, 366; 1989 a. 31, 336, 359; 1991 a. 39; 1993 a. 16, 27, 213, 451, 490; 1995 a. 27 ss. 3268, 3269, 9145 (1); 1995 a. 77, 225; 1997 a. 27, 35, 237; 1999 a. 9; 2001 a. 61.

****NOTE: Please review s. 51.45 (13) (c) and (e), stats.; they seem to indicate that notice may be provided to the spouse of an individual who is adjudicated incompetent in lieu of providing it to the individual's guardian. Should this be changed?

SECTION 59. 51.61 (1) (o) of the statutes is amended to read:

51.61 (1) (o) Except as otherwise provided, have a right not to be filmed or taped, unless the patient signs an informed and voluntary consent that specifically authorizes a named individual or group to film or tape the patient for a particular purpose or project during a specified time period. The patient may specify in such the consent periods during which, or situations in which, the patient may not be filmed or taped. If a patient is legally adjudicated incompetent, such the consent shall be granted on behalf of the patient by the patient's guardian. A patient in Goodland Hall at the Mendota Mental Health Institute, or a patient detained or committed under ch. 980 and placed in a facility specified under s. 980.065, may be filmed or taped for security purposes without the patient's consent, except that such a patient may not be filmed in patient bedrooms or bathrooms for any purpose without the patient's consent.

History: 1975 c. 430; 1977 c. 428 ss. 96 to 109, 115; 1981 c. 20; 1981 c. 314 s. 144; 1983 a. 189 s. 329 (5); 1983 a. 293, 357, 538; 1985 a. 176; 1987 a. 366, 367, 403; 1989 a. 31; 1993 a. 184, 445, 479; 1995 a. 27 s. 9126 (19); 1995 a. 92, 268, 292; 1997 a. 292; 2001 a. 16 ss. 1993j to 1993w, 4034zk, 4034zl; 2001 a. 104.

SECTION 60. 51.61 (1) (w) 3. of the statutes is amended to read:

51.61 (1) (w) 3. A patient, a patient's relative who may be liable for the cost of the patient's care and treatment, or a patient's guardian may request information about charges for care and treatment services at the treatment facility or community mental health program. If a treatment facility or community mental health program receives such a request, the treatment facility or community mental health program shall promptly provide to the individual making the request written information about the treatment facility's or community mental health program's charges for care and treatment services. Unless the request is made by the patient, the guardian of a patient ~~adjudged~~ adjudicated incompetent ~~under ch. 880 in this state~~, the parent or guardian of a minor who has access to the minor's treatment records under s. 51.30 (5) (b) 1., or a person designated by the patient's informed written consent under s. 51.30 (4) (a) as a person to whom information may be disclosed, information released under this subdivision is limited to general information about the treatment facility's or community mental health program's charges for care and treatment services and may not include information which may not be disclosed under s. 51.30.

History: 1975 c. 430; 1977 c. 428 ss. 96 to 109, 115; 1981 c. 20; 1981 c. 314 s. 144; 1983 a. 189 s. 329 (5); 1983 a. 293, 357, 538; 1985 a. 176; 1987 a. 366, 367, 403; 1989 a. 31; 1993 a. 184, 445, 479; 1995 a. 27 s. 9126 (19); 1995 a. 92, 268, 292; 1997 a. 292; 2001 a. 16 ss. 1993j to 1993w, 4034zk, 4034zl; 2001 a. 104.

INSERT 53-9B

SECTION 61. 55.02 of the statutes is amended to read:

55.02 Protective service system; establishment. The department shall develop a statewide system of protective service for mentally retarded and other developmentally disabled persons, for aged infirm persons, for chronically mentally ill persons, and for persons with other like incapacities incurred at any age in accordance with rules promulgated by the department. The protective service system shall be designed to encourage independent living and to avoid protective

17 before
18 5/1/05
19 above
20
21
22
23

1 placement whenever possible. The system shall use the planning and advice of
2 agencies, including the county department under s. 46.215, 46.22, 46.23, 51.42, or
3 51.437. The chairperson of each county board of supervisors shall designate a county
4 department under s. 46.215, 46.22, 51.42, or 51.437 that is providing services in his
5 or her county or a joint mechanism of these county departments to have the
6 responsibility for local planning for the protective service system. The chairperson
7 of the Milwaukee County board of supervisors shall designate the county
8 department under s. 46.215 to serve as the county protective services agency for
9 purposes of s. 55.043. The department and these county departments shall cooperate
10 in developing a coordinated system of services. The department shall provide direct
11 services and enter into contracts with any responsible public or private agency for
12 provision of protective services. In each county, the county department designated
13 under this section shall determine the reporting requirements applicable to the
14 county under s. 880.38 (3) [✓] 54.25 (1) (a).

History: 1973 c. 284; 1975 c. 393; 1979 c. 221; 1981 c. 379; 1985 a. 29 s. 3200 (56); 1985 a. 176; 1985 a. 332 s. 251 (3); 1993 a. 445; 2001 a. 103.

15 **SECTION 62.** 55.03 of the statutes is amended to read:

16 **55.03 Status of guardian.** No agency acting as a guardian appointed under
17 ch. 54. or ch. 880 shall, [✓] 2003 stats., may be a provider of protective services or
18 placement for its ward under this chapter. Nothing in this chapter ~~shall~~ may be
19 construed to prohibit the transfer of guardianship and legal custody under s. 48.427
20 or 48.43.

History: 1973 c. 284; 1979 c. 330.

INSERT 53-9D

21 **SECTION 63.** 55.05 (5) (b) 1. of the statutes is amended to read:

22 55.05 (5) (b) 1. Guardians of persons who have been ~~found~~ adjudicated
23 incompetent ~~under s. 880.33~~ [✓] in this state may consent to admission to a foster home,

1 group home or community-based residential facility, as defined under s. 50.01 (1g),
2 without a protective placement under s. 55.06 if the home or facility is licensed for
3 fewer than 16 beds. Prior to providing that consent, and annually thereafter, the
4 guardian shall review the ward's right to the least restrictive residential
5 environment and consent only to admission to a home or facility that implements
6 those rights.

History: 1973 c. 284; 1975 c. 393; 1981 c. 379; 1985 a. 29 s. 3200 (56); 1985 a. 135 s. 83 (3); 1985 a. 176; 1987 a. 161 ss. 7, 13m; 1987 a. 366; 1989 a. 200; 1991 a. 316; 1993 a. 187, 316, 445.

7 **SECTION 64.** 55.05 (5) (b) 2. of the statutes is amended to read:

8 55.05 (5) (b) 2. Guardians of persons who have been found adjudicated
9 incompetent ~~under s. 880.33~~ in this state may consent to admission to a nursing
10 home if the person is admitted directly from a hospital inpatient unit for recuperative
11 care for a period not to exceed 3 months, unless the hospital admission was for
12 psychiatric care. Prior to providing that consent, the guardian shall review the
13 ward's right to the least restrictive residential environment and consent only to
14 admission to a nursing home that implements those rights. Following the 3-month
15 period, a placement proceeding under s. 55.06 is required.

History: 1973 c. 284; 1975 c. 393; 1981 c. 379; 1985 a. 29 s. 3200 (56); 1985 a. 135 s. 83 (3); 1985 a. 176; 1987 a. 161 ss. 7, 13m; 1987 a. 366; 1989 a. 200; 1991 a. 316; 1993 a. 187, 316, 445.

16 **SECTION 65.** 55.06 (1) (intro.) of the statutes is amended to read:

17 55.06 (1) (intro.) A protective placement under this section is a placement of
18 a ward for the primary purpose of providing care and custody. To be eligible for
19 placement, an individual shall have attained the age of 18, but an individual who is
20 alleged to be developmentally disabled may receive placement upon attaining the
21 age of 14. No protective placement under this section may be ordered unless there
22 is ~~a determination~~ an adjudication of incompetency in accordance with ~~ch. 880~~ this
23 state, except in the case of a minor who is alleged to be developmentally disabled, and

there is a finding of a need for protective placement in accordance with sub. (2) except as provided in subs. (11) and (12). A procedure for adult protective placement may be initiated 6 months prior to an individual's birthday at which he or she first becomes eligible for placement.

INSERT 53-9 DB

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33, 326.

SECTION 66. 55.06 (2) (b) of the statutes is amended to read:

55.06 (2) (b) Except in the case of a minor who is alleged to be developmentally disabled, has either been ~~determined to be~~ adjudicated incompetent by a circuit court, or has had submitted on the minor's behalf a petition for a guardianship;

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33, 326.

SECTION 67. 55.06 (4) of the statutes is amended to read:

INSERT 53-9 DD

55.06 (4) A petition for guardianship if required under sub. (2) (b) must be heard prior to placement under this section. If incompetency has been ~~determined under s. 880.33~~ adjudicated in this state more than one year preceding the filing of an application for protective placement, the court shall review the finding of incompetency.

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33, 326.

SECTION 68. 55.06 (5) of the statutes is amended to read:

55.06 (5) Notice of a petition for placement shall be served upon the person sought to be placed, by personal service, at least 10 days prior to the time set for a hearing. Upon service of the notice, the person sought to be protected shall be informed of the complete contents of the notice. The person serving the notice shall return a certificate to the circuit judge verifying that the petition has been delivered and notice given. The notice shall include the names of all petitioners. Notice shall also be served personally or by mail upon the person's guardian ad litem, legal

1 counsel, guardian, if any, presumptive adult heirs, and upon other persons who have
2 physical custody of the person to be protected whose names and addresses are known
3 to the petitioner or can with reasonable diligence be ascertained, to any
4 governmental or private body or group from whom the person to be protected is
5 known to be receiving aid, and to such other persons or entities as the court may
6 require. Notice shall also be served personally or by mail upon the department at
7 least 10 days prior to the time set for hearing if the person sought to be protected may
8 be placed in a center for the developmentally disabled. Notice shall also be served
9 personally or by mail, at least 10 days before the time set for hearing, upon the county
10 department that is participating in the program under s. 46.278 of the county of
11 residence of the person sought to be protected, if the person has a developmental
12 disability and may be placed in an intermediate facility or a nursing facility, except
13 that, for a person sought to be protected to whom s. 46.279 (4m) applies, this notice
14 shall instead be served on the department. The individual adjudicated incompetent
15 or proposed ~~incompetent~~ for a determination of incompetency is presumed able to
16 attend the hearing unless, after a personal interview, the guardian ad litem certifies
17 to the court that the person is unable to attend.

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33, 326.

INSERT 53-9F

18 **SECTION 69.** 55.06 (8) (c) of the statutes is amended to read:

19 55.06 (8) (c) A medical, psychological, social, vocational and educational
20 evaluation and review, where necessary, and any recommendations for or against
21 maintenance of partial legal rights as provided in s. ~~880.33~~ [✓] 54.25 [✓] (2). Such

1 evaluation and review shall include recommendations for placement consistent with
2 the least restrictive environment required.

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33, 326.

***NOTE: Should s. 54.20 (2) or (3) be referenced here, as well?

No

3 **SECTION 70.** 55.06 (10) (c) of the statutes is amended to read:

4 55.06 (10) (c) Except in the case of a minor who is developmentally disabled and
5 who has a parent or person in the place of a parent, termination of guardianship
6 automatically revokes any protective placement made or protective services
7 provided under this chapter unless the placement or services are continued on a
8 voluntary basis. Notice to this effect shall be given to the ward by the provider of
9 services at the time of termination. If protective placement is made or protective
10 services are provided under this chapter to a minor who is developmentally disabled,
11 the attainment of the age of majority by ~~such~~ the individual automatically revokes
12 any such protective placement made or protective services provided unless the
13 placement or services are continued on a voluntary basis, or there is ~~a finding an~~
14 adjudication of incompetency and appointment of a guardian pursuant to ch. 880 in
15 this state.

RESTORE TO PLAIN TEXT

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33, 326.

16 **SECTION 71.** 55.06 (14) of the statutes is amended to read:

17 55.06 (14) Prior to discharge of an individual from a protective placement, the
18 ~~appropriate board which~~ county department that is responsible for protective
19 placement shall review the need for ~~provision of~~ continuing protective services ~~or for~~,
20 continuation of full or limited guardianship, or ~~provision for such~~ guardianship, if
21 the individual has no guardian, guardianship. ~~Recommendation shall be made to the~~
22 ~~court if~~ If the county department's recommendation includes a course of action for

1 which court approval would be required, the county department shall make the
2 recommendation to the court. Prior to discharge of the individual from any state
3 mental health institute or center for the developmentally disabled, the department
4 shall make ~~such~~ the review under s. 51.35.

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33, 326.

5 **SECTION 72.** 55.06 (17) (b) of the statutes is amended to read:

6 55.06 (17) (b) If the subject is an adult who has been ~~adjudged~~ adjudicated
7 incompetent ~~under ch. 880~~ in this state or is a minor, consent for release of
8 information from and access to the court records may be given only as provided in
9 s. 51.30 (5).

History: 1973 c. 284; 1975 c. 41; 1975 c. 94 s. 3; 1975 c. 189 s. 99 (2); 1975 c. 393, 421, 422; 1975 c. 430 ss. 67 to 71, 80; 1977 c. 26, 299, 428; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (1); 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 314 s. 146; 1981 c. 379; 1983 a. 27; 1983 a. 189 s. 329 (19); 1983 a. 219; 1985 a. 29 ss. 1143, 3202 (23); 1987 a. 366; 1989 a. 31, 359; 1991 a. 269; 1993 a. 187, 451; 1995 a. 27, 92; 1997 a. 237, 283; 2001 a. 109; 2003 a. 33, 326.

INSERT 53-9H

10 **SECTION 73.** 58.05 (2) of the statutes is amended to read:

11 58.05 (2) Any person who is mentally ill or ~~retarded~~ developmentally disabled
12 may, upon the written request of his or her guardian, be committed to any such
13 hospital or institution in the manner persons who are ~~adjudged mentally~~ adjudicated
14 incompetent are committed to the state hospitals; but the county in which ~~such~~ the
15 person resides shall be liable for his or her support, maintenance, and treatment only
16 when he or she has been committed upon the request of the county board, and ~~such~~
17 the hospital or institution ~~shall not be~~ is not required to keep, care for, or treat any
18 person who is mentally ill or ~~retarded~~ developmentally disabled longer than his or
19 her guardian ~~or~~, friends, or the county from which he or she shall have been
20 committed shall defray the expenses of his or her care and treatment. Any person

1 may voluntarily place himself or herself in such hospital, asylum, or institution for
2 care and treatment.

History: 1977 c. 83; 1985 a. 29, 332; 1991 a. 316.

****NOTE: I believe that ch. 58, stats., is seldom used; have I amended this provision
as you wish?

Yes

3 **SECTION 74.** 66.0915 (1) of the statutes is amended to read:

4 66.0915 (1) PRIVATE VIADUCTS IN CITIES, VILLAGES AND TOWNS. The privilege of
5 erecting a viaduct above a public street, road, or alley, for the purpose of connecting
6 buildings on each side, may be granted by the city council, village board, or town
7 board upon the written petition of the owners of all the frontage of the lots and lands
8 abutting the portion sought to be connected, and the owners of more than one-half
9 of the frontage of the lots and lands abutting upon that portion of the remainder that
10 lies within 2,650 feet from the ends of the portion proposed to be connected. If a lot
11 or land is owned by the state, or by a county, city, village, or town, or by a minor or
12 individual adjudicated incompetent ~~person~~, or the title to the lot or land is held in
13 trust, the petition may be signed by the governor, the chairperson of the county
14 board, the mayor of the city, the president of the board of trustees of the village, the
15 chairperson of the town board, the guardian of the minor or individual adjudicated
16 incompetent ~~person~~, or the trustee, respectively, and the signature of a private
17 corporation may be made by its president, secretary, or other principal officer or
18 managing agent. Written notice stating when and where the petition will be acted
19 upon, and describing the location of the proposed viaduct, shall be given by the city
20 council, village board, or town board by publication of a class 3 notice, under ch. 985.

History: 1971 c. 43; 1983 a. 192 s. 303 (2); 1991 a. 316; 1993 a. 246; 1999 a. 150 s. 117; Stats. 1999 s. 66.0915

21 **SECTION 75.** 66.0915 (2) of the statutes is amended to read:

22 66.0915 (2) REMOVAL OF PRIVATE VIADUCTS. A viaduct in a city, village, or town
23 may be discontinued by the city council, village board, or town board, upon written

petition of the owners of more than one-half of the frontage of the lots and lands abutting on the street or road approaching on each end of the viaduct, which lies within 2,650 feet from the ends of the viaduct. If a lot or land is owned by the state, or by a county, city, village, or town, or by a minor or individual adjudicated incompetent person, or the title to the lot or land is held in trust, the petition may be signed by the governor, the chairperson of the county board, the mayor of the city, the president of the board of trustees of the village, the chairperson of the town board, the guardian of the minor or individual adjudicated incompetent person, or the trustee, respectively, and the signature of a private corporation may be made by its president, secretary, or other principal officer or managing agent. Written notice stating when and where the petition will be acted upon, and stating what viaduct is proposed to be discontinued, shall be given by the city council, village board, or town board by publication of a class 1 notice, under ch. 985, not less than one year before the day fixed for the hearing and a class 3 notice, under ch. 985, within the 30 days before the date of the hearing.

History: 1971 c. 43; 1983 a. 192 s. 303 (2); 1991 a. 316; 1993 a. 246; 1999 a. 150 s. 117; Stats. 1999 s. 66.0915

SECTION 76. 71.07 (3m) (a) 1. e. of the statutes is amended to read:

71.07 (3m) (a) 1. e. For purposes of filing a claim under this subsection, when a guardian has been appointed ~~under ch. 880~~ [✓] in this state for a ward who owns the farmland, the claimant shall be the guardian on behalf of the ward.

History: 1987 a. 312; 1987 a. 411 ss. 63, 79 to 82, 85, 86; 1987 a. 419, 422; 1989 a. 31, 44, 56, 100, 359; 1991 a. 39, 269, 292; 1993 a. 16, 112, 204, 471, 491; 1995 a. 27 ss. 3377m to 3393m, 9116 (5); 1995 a. 209, 227, 400, 453; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9, 10, 32; 1999 a. 150 s. 672; 1999 a. 198; 2001 a. 16, 109; 2003 a. 72, 99, 135, 183, 255, 267, 326.

SECTION 77. 71.28 (2m) (a) 1. e. of the statutes is amended to read:

1 71.28 (2m) (a) 1. e. For purposes of filing a claim under this subsection, when
2 a guardian has been appointed under ~~ch. 880~~ [✓] in this state for a ward who owns the
3 farmland, the claimant shall be the guardian on behalf of the ward.

History: 1987 a. 312; 1987 a. 411 ss. 88, 130 to 139; 1987 a. 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292; 1993 a. 16, 112, 232, 491; 1995 a. 2; 1995 a. 27 ss. 3399r to 3404c, 9116 (5); 1995 a. 209, 227; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 326.

4 **SECTION 78.** 71.47 (2m) (a) 1. e. of the statutes is amended to read:

5 71.47 (2m) (a) 1. e. For purposes of filing a claim under this subsection, when
6 a guardian has been appointed under ~~ch. 880~~ [✓] in this state for a ward who owns the
7 farmland, the claimant shall be the guardian on behalf of the ward.

History: 1987 a. 312, 411, 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292, 315; 1993 a. 16, 112; 1995 a. 27 ss. 3407m to 3412m, 9116 (5); 1995 a. 209, 227, 417; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 326.

8 **SECTION 79.** 71.58 (1) (f) of the statutes is amended to read:

9 71.58 (1) (f) For purposes of filing a claim under this subchapter, when a
10 guardian has been appointed under ~~ch. 880~~ [✓] in this state for a ward who owns the
11 farmland, the claimant shall be the guardian on behalf of the ward.

History: 1987 a. 312, 411; 1989 a. 31; 1993 a. 112.

12 **SECTION 80.** 75.03 (title) of the statutes is amended to read:

13 **75.03** (title) **Redeeming lands of minors, ~~incompetents~~ or individuals**
14 **adjudicated incompetent.**

History: 1977 c. 83; 1987 a. 378.

15 **SECTION 81.** 75.521 (8) of the statutes is amended to read:

16 75.521 (8) DUTY OF THE COURT TO ENTER JUDGMENT IN DEFAULT CASES. In the event
17 of the failure to redeem or answer by any person having the right to redeem or answer
18 as hereinabove provided, such person and all persons claiming under and through
19 that person, from and after the date of the filing of the list of tax liens in the office
20 of the clerk of the circuit court of the county, shall be forever barred and foreclosed
21 of all right, title and interest and equity of redemption in and to the parcel described
22 in such list of the tax liens, and upon filing of an affidavit of such default or failure
23 of redemption by the county treasurer of such county, the court in which such list of

1 tax liens is filed, shall render final judgment ordering and adjudging that the county
2 is vested with an estate in fee simple absolute in such lands, subject, however, to all
3 unpaid taxes and charges which are subsequent to the latest dated valid tax lien
4 appearing on the list specified in sub. (3) (b) and to recorded restrictions as provided
5 by s. 75.14 (4) and all persons, both natural and artificial, including the state of
6 Wisconsin, infants, ~~incompetents~~ individuals adjudicated incompetent, absentees,
7 and nonresidents who may have had any right, title, interest, claim, lien or equity
8 of redemption in such lands, are forever barred and foreclosed of such right, title,
9 interest, claim, lien or equity of redemption. Such judgment shall be deemed to be
10 based on the latest dated valid tax lien appearing on the list of tax liens. No personal
11 judgment shall be entered against any person having or claiming to have any right,
12 title or interest in or lien upon said lands. Such judgment shall have the effect of the
13 issuance of a tax deed or deeds and of judgment to bar former owners and quiet title
14 thereon.

History: 1977 c. 174; 1979 c. 34, 89; 1983 a. 52, 192, 302, 538; 1987 a. 27, 378; 1989 a. 330, 347; 1991 a. 39, 316; 1993 a. 301, 490; 1995 a. 224, 225, 417; 1997 a. 72, 250; 1999 a. 96.

15 **SECTION 82.** 75.521 (12) (b) of the statutes is amended to read:

16 75.521 (12) (b) This section shall apply to and be valid and effective with
17 respect to all defendants even though one or more be infants, ~~incompetents~~
18 individuals adjudicated incompetent, absentees or nonresidents of the state of
19 Wisconsin, provided that a guardian ad litem shall be appointed to serve for all
20 persons known or unknown who have or may have an interest in the lands described
21 in any list and who are or may be minors or ~~incompetents~~ individuals adjudicated
22 incompetent at the date of filing such list. Such guardian ad litem may be appointed

1 by the court without notice, and the fee for the services of the guardian ad litem as
2 fixed by the court shall be paid by the county.

History: 1977 c. 174; 1979 c. 34, 89; 1983 a. 52, 192, 302, 538; 1987 a. 27, 378; 1989 a. 330, 347; 1991 a. 39, 316; 1993 a. 301, 490; 1995 a. 224, 225, 417; 1997 a. 72, 250; 1999 a. 96.

3 **SECTION 83.** 75.521 (13) (b) of the statutes is amended to read:

4 75.521 (13) (b) In the event that the court shall determine that the issue raised
5 by the answer of the defendant is without merit, a final judgment to such effect shall
6 be entered ordering and adjudging that the county is vested with an estate in fee
7 simple absolute in such lands subject, however, to all unpaid taxes and charges which
8 are subsequent to the latest dated tax lien appearing on the list specified in sub. (3)
9 (b) and to recorded restrictions as provided by s. 75.14, and all persons, both natural
10 and artificial, including the state of Wisconsin, infants, ~~incompetents~~ individuals
11 adjudicated incompetent, absentees and nonresidents who may have had any right,
12 title, interest, claim, lien or equity of redemption in such lands, are forever barred
13 and foreclosed of such right, title, interest, claim, lien or equity of redemption. Such
14 judgment shall be deemed to be based on the latest dated tax lien appearing on the
15 list of tax liens. Such judgment shall have the effect of the issuance of a tax deed or
16 deeds and of judgment to bar former owners and quiet title thereon.

History: 1977 c. 174; 1979 c. 34, 89; 1983 a. 52, 192, 302, 538; 1987 a. 27, 378; 1989 a. 330, 347; 1991 a. 39, 316; 1993 a. 301, 490; 1995 a. 224, 225, 417; 1997 a. 72, 250; 1999 a. 96.

17 **SECTION 84.** 88.04 (2) of the statutes is amended to read:

18 88.04 (2) If any minor or individual adjudicated incompetent ~~person~~ owns land
19 in a drainage district or proposed drainage district or proposed annex to a drainage
20 district, the ~~general~~ guardian or next of kin of such the minor or ~~incompetent~~
21 individual may sign petitions under this chapter for and on behalf of the minor or
22 incompetent.

History: 1991 a. 316; 1993 a. 456.

23 **SECTION 85.** 88.10 of the statutes is amended to read:

1 **88.10 Guardian ad litem; failure to appoint.** Failure to appoint a guardian
2 ad litem in a proceeding under this chapter is not jurisdictional, but when the failure
3 is discovered a guardian ad litem shall be appointed and an order served upon the
4 guardian ad litem to show cause why the minor or ~~incompetent~~ individual
5 adjudicated incompetent should not be bound by all prior proceedings pertaining to
6 the drainage district. On such a hearing the court shall enter such order or judgment
7 as the facts warrant.

History: 1991 a. 316; 1993 a. 456; 1999 a. 83.

8 **SECTION 86.** 92.03 (4) (intro.) of the statutes is amended to read:

9 92.03 (4) (intro.) "Landowner" means any person over 18 years of age and any
10 partnership, limited liability company, firm, or corporation that holds title to land
11 lying within a county, whether or not this land is subject to easement, mortgage, lien,
12 lease, or restrictive covenant, except that this term does not include any person who
13 is under guardianship, a person who is adjudicated incompetent, or a person who is
14 mentally ill. A person, partnership, limited liability company, firm, or corporation
15 is deemed to hold title to land if the person, partnership, limited liability company,
16 firm, or corporation has any of the following:

History: 1981 c. 346; 1983 a. 410 s. 2200 (2); 1985 a. 332 s. 251 (8); 1993 a. 16, 112.

17 **SECTION 87.** 93.11 (6) (a) 1. of the statutes is amended to read:

18 93.11 (6) (a) 1. That the licensee is adjudicated incompetent.

History: 1975 c. 39; 1977 c. 196 s. 131; 1979 c. 129; 1993 a. 492; 1997 a. 191, 253; 1999 a. 83.

19 **SECTION 88.** 114.135 (2) of the statutes is amended to read:

20 114.135 (2) NOTICE; CLAIM FOR DAMAGES. In case of any airport landing field or
21 landing and take-off strip owned by any city, village, town, or county or any union
22 of them, the commission or other body in charge of the operation and control of the
23 airport, landing field, or landing and take-off strip may prepare and record without
24 charge with the register of deeds plans and specifications showing the protection

1 privileges sought as described in sub. (1). The commission or other body in charge
2 shall send by registered mail with return receipt to each owner at his or her
3 last-known address a notice stating that the plans and specifications have been
4 recorded with the register of deeds' office, stating the county, time of recording, the
5 record number, and a brief description of the parcel of land or interest therein
6 affected. If the address of the owner cannot be ascertained or the registered letter
7 is returned unclaimed, notice shall be sent by registered mail to the person in
8 possession of the premises. If no person is in possession, then the notice shall be
9 posted in a conspicuous place on the land involved and published as a class 3 notice,
10 under ch. 985, in the area affected. The right of the owner to claim for damages for
11 the protection regulations imposed in the plans and specifications, or the removal of
12 obstructions shall be forever barred, unless the owner files a claim for damages with
13 the commission or other body in charge within 6 months from the receipt of the notice
14 from the commission, or other body in charge, or the posting and last publication.
15 The claim shall be verified and shall state the amount of damages claimed. The
16 commission or other body in charge may pay the damages, if it has available funds,
17 and the payment shall operate as a conveyance. If no claims for payment are filed
18 or if payment is made, the commission or other body in charge shall file an affidavit
19 for each parcel involved setting forth the rights acquired which shall be recorded by
20 the register of deeds without charge and when so recorded has the same effect as any
21 recorded instrument. If any owner is a minor or is adjudicated incompetent, the
22 notice may be sent by registered mail to the owner's guardian, if he or she has one,
23 and if there is none the circuit court of the county in which the land, or a larger part,
24 is located shall upon application of the commission or other body in charge appoint
25 a guardian to receive the notice, and to protect the rights of the owner. Any funds

payable to the owner shall be cared for in the manner provided in ch. 880[✓] 54[✓]. If the commission or other body in charge determines that the damages claimed are excessive, it shall so report to the governing body that established the airport, landing field or landing and take-off strip in question and with its consent may acquire in the name of the governmental body the protection privilege desired in the manner set forth in sub. (1) or it may deposit with the county clerk an award and notify the owner of the land involved in the method specified in this subsection. The landowner may accept the award without prejudice to his or her right to claim and contest for a greater sum. The landowner may, within a period of 6 months after notice of the award, proceed as provided in ch. 32 to have the damages appraised.

History: 1971 c. 41 s. 12; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1977 c. 29, 449; 1979 c. 32; 1981 c. 347; 1993 a. 16, 301; 1995 a. 201.

SECTION 89. 115.76 (12) (b) 2. of the statutes is amended to read:

115.76 (12) (b) 2. The state, a county, or a child welfare agency, if a child was made a ward of the state, county, or child welfare agency under ch. 54[✓] or ch. 880[✓], 2003 stats., [✓]or if a child has been placed in the legal custody or guardianship of the state, county, or child welfare agency under ch. 48 or ch. 767.

History: 1997 a. 164, 237; 1999 a. 116, 161; 2001 a. 59.

SECTION 90. 115.797 (1) (c) of the statutes is amended to read:

115.797 (1) (c) "Party" means a competent adult pupil or the parent of a child or ~~incompetent~~[✓] of an adult pupil adjudicated incompetent[✓] who is the subject of a dispute, and the local educational agency.

History: 1997 a. 164.

SECTION 91. 115.807 (intro.) of the statutes is amended to read:

115.807 Transfer of parental rights at age of majority. (intro.) When a child with a disability, other than a child with a disability who has been determined

1 ~~to be adjudicated incompetent under ch. 880 in this state~~, reaches the age of 18, all
2 of the following apply:

3 History: 1997 a. 164.

3 **SECTION 92.** 146.34 (1) (d) of the statutes is amended to read:

4 146.34 (1) (d) "Guardian" means the person named by the court under ch. 48
5 or 54 or ch. 880, 2003 stats., having the duty and authority of guardianship.

6 History: 1985 a. 50; 1995 a. 77; 1997 a. 188; 1999 a. 32, 162; 2001 a. 38.

6 **SECTION 93.** 146.81 (5) of the statutes is amended to read:

7 146.81 (5) "Person authorized by the patient" means the parent, guardian, or
8 legal custodian of a minor patient, as defined in s. 48.02 (8) and (11), the person
9 vested with supervision of the child under s. 938.183 or 938.34 (4d), (4h), (4m), or
10 (4n), the guardian of a patient ~~adjudged~~ adjudicated incompetent, ~~as defined in s.~~
11 ~~880.01 (3) and (4) in this state~~, the personal representative or spouse of a deceased
12 patient, any person authorized in writing by the patient or a health care agent
13 designated by the patient as a principal under ch. 155 if the patient has been found
14 to be incapacitated under s. 155.05 (2), except as limited by the power of attorney for
15 health care instrument. If no spouse survives a deceased patient, "person authorized
16 by the patient" also means an adult member of the deceased patient's immediate
17 family, as defined in s. 632.895 (1) (d). A court may appoint a temporary guardian
18 for a patient believed incompetent to consent to the release of records under this
19 section as the person authorized by the patient to decide upon the release of records,
20 if no guardian has been appointed for the patient.

History: 1979 c. 221; 1981 c. 39 s. 22; 1983 a. 27; 1983 a. 189 s. 329 (1); 1983 a. 535; 1985 a. 315; 1987 a. 27, 70, 264; 1987 a. 399 ss. 403br, 491r; 1987 a. 403; 1989 a. 31, 168, 199, 200, 229, 316, 359; 1991 a. 39, 160, 269; 1993 a. 27, 32, 105, 112, 183, 385, 443, 496; 1995 a. 27 s. 9145 (1); 1995 a. 77, 98, 352; 1997 a. 27, 67, 75, 156, 175; 1999 a. 9, 32, 151, 180, 188; 2001 a. 38, 70, 74, 80, 89.

21 **SECTION 94.** 146.82 (2) (a) 9. a. of the statutes is amended to read:

22 146.82 (2) (a) 9. a. In this subdivision, "abuse" has the meaning given in s. 51.62
23 (1) (ag); "neglect" has the meaning given in s. 51.62 (1) (br); and "parent" has the

1 meaning given in s. 48.02 (13), except that "parent" does not include the parent of a
2 minor whose custody is transferred to a legal custodian, as defined in s. 48.02 (11),
3 or for whom a guardian is appointed under s. 54.10 or s. 880.33, 2003 stats.

History: 1979 c. 221; 1983 a. 398; 1985 a. 29, 241, 332, 340; 1987 a. 40, 70, 127, 215, 233, 380, 399; 1989 a. 31, 102, 334, 336; 1991 a. 39; 1993 a. 16, 27, 445, 479; 1995 a. 98, 169, 417; 1997 a. 35, 114, 231, 272, 292, 305; 1999 a. 32, 78, 83, 114, 151; 2001 a. 38, 59, 69, 105; 2003 a. 281.

4 **SECTION 95.** 146.82 (2) (a) 9. c. of the statutes is amended to read:

5 146.82 (2) (a) 9. c. If the patient, regardless of age, has a guardian appointed
6 under s. 54.10 or s. 880.33, 2003 stats., or if the patient is a minor with developmental
7 disability, as defined in s. 51.01 (5) (a), who has a parent or has a guardian appointed
8 under s. 48.831 and does not have a guardian appointed under s. 54.10 or s. 880.33,
9 2003 stats., information concerning the patient that is obtainable by staff members
10 of the agency or nonprofit corporation with which the agency has contracted is
11 limited, except as provided in subd. 9. e., to the nature of an alleged rights violation,
12 if any; the name, birth date and county of residence of the patient; information
13 regarding whether the patient was voluntarily admitted, involuntarily committed
14 or protectively placed and the date and place of admission, placement or
15 commitment; and the name, address and telephone number of the guardian of the
16 patient and the date and place of the guardian's appointment or, if the patient is a
17 minor with developmental disability who has a parent or has a guardian appointed
18 under s. 48.831 and does not have a guardian appointed under s. 54.10 or s. 880.33,
19 2003 stats., the name, address and telephone number of the parent or guardian
20 appointed under s. 48.831 of the patient.

History: 1979 c. 221; 1983 a. 398; 1985 a. 29, 241, 332, 340; 1987 a. 40, 70, 127, 215, 233, 380, 399; 1989 a. 31, 102, 334, 336; 1991 a. 39; 1993 a. 16, 27, 445, 479; 1995 a. 98, 169, 417; 1997 a. 35, 114, 231, 272, 292, 305; 1999 a. 32, 78, 83, 114, 151; 2001 a. 38, 59, 69, 105; 2003 a. 281.

21 **SECTION 96.** 146.83 (4) (b) of the statutes is amended to read:

22 146.83 (4) (b) Conceal or withhold a patient health care record with intent to
23 prevent or obstruct an investigation or prosecution or with intent to prevent its

1 release to the patient, to his or her guardian appointed under ch. 880, to his or her
2 health care provider with a statement of informed consent, or under the conditions
3 specified in s. 146.82 (2), or to a person with a statement of informed consent.

History: 1979 c. 221; 1989 a. 56; 1993 a. 27, 445; 1997 a. 157; 2001 a. 109.

4 **SECTION 97.** 154.07 (2) of the statutes is amended to read:

5 154.07 (2) EFFECT OF DECLARATION. The desires of a qualified patient who is
6 competent supersede the effect of the declaration at all times. If a qualified patient
7 is adjudicated incompetent at the time of the decision to withhold or withdraw
8 life-sustaining procedures or feeding tubes, a declaration executed under this
9 subchapter is presumed to be valid. The declaration of a qualified patient who is
10 diagnosed as pregnant by the attending physician has no effect during the course of
11 the qualified patient's pregnancy. For the purposes of this subchapter, a physician
12 or inpatient health care facility may presume in the absence of actual notice to the
13 contrary that a person who executed a declaration was of sound mind at the time.

History: 1983 a. 202; 1991 a. 84; 1995 a. 200; 2003 a. 290.

14 **SECTION 98.** 154.13 (2) (c) of the statutes is amended to read:

15 154.13 (2) (c) The court and all parties involved in proceedings in this state for
16 guardianship of adjudication of incompetency and appointment of a guardian for the
17 declarant under ch. 880, for emergency detention under s. 51.15, for involuntary
18 commitment under s. 51.20, or for protective placement or protective services under
19 ch. 55.

History: 1991 a. 281.

20 **SECTION 99.** 155.05 (1) of the statutes is amended to read:

21 155.05 (1) An individual who is of sound mind and has attained age 18 may
22 voluntarily execute a power of attorney for health care. An individual for whom an
23 adjudication of incompetence and appointment of a guardian of the person is in effect

or limit the authority of the agent under the terms of the power of attorney for health care instrument

1 ~~under ch. 880 in this state~~ is presumed not to be of sound mind for purposes of ~~this~~
2 ~~subsection.~~ *executing a power of attorney for health care*

History: 1989 a. 200.

INSERT 53-4J

3 **SECTION 100.** 155.60 (1) of the statutes is amended to read:

4 155.60 (1) Nothing in this chapter prohibits an individual from petitioning a
5 court ~~under ch. 880 in this state~~ for a determination of incompetency and for
6 appointment of a guardian for an individual who is a principal under this chapter.

RESTORE TO PLAIN TEXT

History: 1989 a. 200.

7 **SECTION 101.** 155.60 (2) of the statutes is amended to read:

8 155.60 (2) If ~~a court under s. 880.33~~ *✓* determines that an individual who is a
9 principal is ~~adjudicated~~ incompetent ~~or makes a finding of limited incompetency~~
10 ~~under s. 880.33 (3) and appoints a guardian for the individual in this state and is~~
11 ~~appointed~~ *is appointed for him or her* a guardian, the power of attorney for health care executed under this
12 chapter by the principal ~~is revoked and the power of attorney for health care~~
13 ~~instrument is invalid, unless the court finds that the power of attorney for health~~ *remains in effect, except that*
14 ~~care and power of attorney for health care instrument should remain in effect. If the~~ *invalidate the*
15 ~~court makes this finding, the guardian for the individual may not make health care~~ *revocation or limitation*
16 decisions for the ward that may be made by the health care agent, unless the
17 guardian is the health care agent. *may under s. 54.46 (2) (b) Unless*
for good cause shown, revoke

History: 1989 a. 200.

****NOTE: Please see the ****NOTE under the treatment of s. 51.40 (1) (g) 1. Please also see the memorandum sent to Betsy Abramson by e-mail concerning the bill's treatment of health care powers of attorney.

18 **SECTION 102.** 155.65 (2) (c) of the statutes is amended to read:

19 155.65 (2) (c) The court and all parties involved in proceedings in this state for
20 guardianship of adjudication of incompetency and appointment of a guardian for the
21 principal ~~under ch. 880~~, for emergency detention under s. 51.15, for involuntary

1 commitment under s. 51.20, or for protective placement or protective services under
2 ch. 55.

3 History: 1991 a. 281.

SECTION 103. 179.65 of the statutes is amended to read:

4 **179.65 Power of estate of deceased or incompetent partner**
5 **adjudicated incompetent.** If a partner who is an individual dies or is adjudged
6 adjudicated incompetent to manage his or her person or property, the partner's
7 personal representative, guardian, conservator, or other legal representative may
8 exercise all of the partner's rights for the purpose of settling his or her estate or
9 administering his or her property, including any power the partner had to give an
10 assignee the right to become a limited partner. If a partner is a corporation, limited
11 liability company, trust, or other entity and is dissolved or terminated, the powers
12 of that partner may be exercised by its legal representative or successor.

13 History: 1983 a. 173; 1993 a. 112; 2001 a. 102.

SECTION 104. 180.0103 (11) of the statutes is amended to read:

14 180.0103 (11) "Individual" includes the estate of an individual adjudicated
15 incompetent or a deceased natural person.

16 History: 1989 a. 303; 1991 a. 16, 221; 1993 a. 112; 1995 a. 27, 271; 1999 a. 9; 2001 a. 44, 104.

SECTION 105. 181.0103 (14) of the statutes is amended to read:

17 181.0103 (14) "Individual" means a natural person. Except in ss. 181.0802 and
18 181.0840, "individual" includes the estate of an individual adjudicated incompetent
19 or a deceased natural person.

20 History: 1997 a. 79; 2001 a. 44.

SECTION 106. 186.10 (2) of the statutes is amended to read:

21 186.10 (2) **SHARES IN TRUST.** Shares may be issued in trust, subject to any
22 conditions prescribed in the bylaws. Share accounts and deposit accounts may be
23 held by a member in trust for a beneficiary, held by a nonmember in trust for a

beneficiary who is a member or held by a nonmember custodian for a member
pursuant to ss. 880.61 to 880.72 under ss. 54.854 to 54.898.

History: 1971 c. 193; 1973 c. 291; 1983 a. 369; 1989 a. 331; 1991 a. 32; 1995 a. 151; 1997 a. 152.

SECTION 107. 214.37 (4) (k) 1. of the statutes is amended to read:

214.37 (4) (k) 1. An affidavit stating that the person has standing under s.
867.01 (3) (ac) or 867.02 (2) (ac) to petition for summary settlement or assignment
of a decedent's estate or that the person is an heir of the decedent, or was guardian,
as defined in s. 54.01 (9) or s. 880.01 (3), 2003 stats., of the decedent at the time of
the decedent's death, and may obtain transfer of property of a decedent under s.
867.03.

History: 1991 a. 221; 1995 a. 27; 1997 a. 27; 1999 a. 94.

SECTION 108. 215.14 (9) (title) of the statutes is amended to read:

215.14 (9) (title) SAVINGS ACCOUNTS OF DECEASED OR INCOMPETENT PERSONS.

History: 1971 c. 41 s. 12; 1971 c. 229; 1971 c. 307 s. 118; 1973 c. 291; 1975 c. 359, 421; 1983 a. 167; 1989 a. 331; 2001 a. 102.

***NOTE: The title of this provision does not seem congruent with the text. Is my
amendment what you wish?

SECTION 109. 215.26 (8) (e) 1. of the statutes is amended to read:

215.26 (8) (e) 1. Submits an affidavit stating that the person has standing
under s. 867.01 (3) (ac) or 867.02 (2) (ac) to petition for summary settlement or
assignment of a decedent's estate or that the person is an heir of the decedent, or was
guardian, as defined in s. 54.01 (9) or s. 880.01 (3), 2003 stats., of the decedent at the
time of the decedent's death, and may obtain transfer of property of a decedent under
s. 867.03; and

History: 1971 c. 229; 1973 c. 291; 1975 c. 359 s. 16; 1975 c. 421; 1977 c. 140; 1977 c. 187 s. 135; 1979 c. 32 s. 92 (6); 1981 c. 192; 1983 a. 167 ss. 43, 44, 112; 1983 a. 192 s. 304; 1983 a. 268; 1989 a. 313; 1991 a. 78, 280, 316; 1993 a. 425, 481; 1995 a. 27, 104, 336, 400; 1997 a. 27; 1999 a. 94; 2003 a. 262.

SECTION 110. 223.03 (6) (intro.) of the statutes is amended to read:

223.03 (6) (intro.) To act as trustee, personal representative, registrar of stocks
and bonds, custodian, agent, guardian of estates, guardian of any person the estate
or guardian of the person of any individual subject to guardianship, assignee,

receiver, and in any other fiduciary capacity authorized by the division, subject to all of the following conditions:

History: 1973 c. 291; 1975 c. 94; 1983 a. 207; 1991 a. 74, 316; 1995 a. 27, 226, 336; 2001 a. 102.

SECTION 111. 223.10 of the statutes is amended to read:

223.10 Organizations as fiduciaries. Except as provided in s. ~~880.35~~ [✓]54.15[✓] (7), no court or probate registrar in this state may appoint or issue letters to any corporation, limited liability company, association, partnership or business trust as trustee, personal representative, guardian, conservator, assignee, receiver, or in any other fiduciary capacity unless such corporation, limited liability company, association, partnership or business trust is subject to regulation and examination under s. 223.105, or is a national bank, state or federal savings and loan association, state or federal savings bank or federal credit union with authority to exercise such powers, or is a foreign corporation operating under s. 223.12.

History: 1973 c. 284; 1975 c. 65; 1991 a. 221; 1993 a. 112; 1995 a. 273.

INSERT 53-9 L

SECTION 112. 252.15 (2) (a) 4. a. of the statutes is amended to read:

252.15 (2) (a) 4. a. The individual has been adjudicated incompetent ~~under ch.~~ [✓]880 in this state, is under 14 years of age or is unable to give consent because he or she is unable to communicate due to a medical condition.

History: 1985 a. 29, 73, 120; 1987 a. 70 ss. 13 to 27, 36; 1987 a. 403 ss. 136, 256; 1989 a. 200; 1989 a. 201 ss. 11 to 25, 36; 1989 a. 298, 359; 1991 a. 269; 1993 a. 16 s. 2567; 1993 a. 27 ss. 332, 334, 337, 340, 342; Stats. 1993 s. 252.15; 1993 a. 32, 183, 190, 252, 395, 491; 1995 a. 27 ss. 6323, 9116 (5), 9126 (19); 1995 a. 77, 275; 1997 a. 54, 80, 156, 188; 1999 a. 9, 32, 79, 151, 162, 188; 2001 a. 38, 59, 69, 74, 103, 105; 2003 a. 271.

SECTION 113. 252.15 (2) (a) 4. b. of the statutes is amended to read:

252.15 (2) (a) 4. b. The health care provider obtains consent for the testing from the individual's guardian, if the individual is adjudicated incompetent ~~under ch.~~ [✓]880 in this state; from the individual's parent or guardian, if the individual is under 14 years of age; or from the individual's closest living relative or another with whom the

1 individual has a meaningful social and emotional relationship if the individual is not
2 a minor nor adjudicated incompetent.

History: 1985 a. 29, 73, 120; 1987 a. 70 ss. 13 to 27, 36; 1987 a. 403 ss. 136, 256; 1989 a. 200; 1989 a. 201 ss. 11 to 25, 36; 1989 a. 298, 359; 1991 a. 269; 1993 a. 16 s. 2567; 1993 a. 27 ss. 332, 334, 337, 340, 342; Stats. 1993 s. 252.15; 1993 a. 32, 183, 190, 252, 395, 491; 1995 a. 27 ss. 6323, 9116 (5), 9126 (19); 1995 a. 77, 275; 1997 a. 54, 80, 156, 188; 1999 a. 9, 32, 79, 151, 162, 188; 2001 a. 38, 59, 69, 74, 103, 105; 2003 a. 271.

3 **SECTION 114.** 252.15 (2) (bm) (intro.) of the statutes is amended to read:

4 252.15 (2) (bm) (intro.) The health care provider that subjects a person to a test
5 for the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to
6 HIV under par. (a) 3. shall provide the test subject and the test subject's guardian,
7 if the test subject is an individual found incompetent ~~under ch. 880~~ [✓] in this state, with
8 all of the following information:

History: 1985 a. 29, 73, 120; 1987 a. 70 ss. 13 to 27, 36; 1987 a. 403 ss. 136, 256; 1989 a. 200; 1989 a. 201 ss. 11 to 25, 36; 1989 a. 298, 359; 1991 a. 269; 1993 a. 16 s. 2567; 1993 a. 27 ss. 332, 334, 337, 340, 342; Stats. 1993 s. 252.15; 1993 a. 32, 183, 190, 252, 395, 491; 1995 a. 27 ss. 6323, 9116 (5), 9126 (19); 1995 a. 77, 275; 1997 a. 54, 80, 156, 188; 1999 a. 9, 32, 79, 151, 162, 188; 2001 a. 38, 59, 69, 74, 103, 105; 2003 a. 271.

9 **SECTION 115.** 252.15 (5) (a) 15. of the statutes is amended to read:

10 252.15 (5) (a) 15. To anyone who provides consent for the testing under sub. (2)
11 (a) 4. b., except that disclosure may be made under this subdivision only during a
12 period in which the test subject is adjudicated incompetent ~~under ch. 880~~ [✓] in this
13 state, is under 14 years of age, or is unable to communicate due to a medical
14 condition.

History: 1985 a. 29, 73, 120; 1987 a. 70 ss. 13 to 27, 36; 1987 a. 403 ss. 136, 256; 1989 a. 200; 1989 a. 201 ss. 11 to 25, 36; 1989 a. 298, 359; 1991 a. 269; 1993 a. 16 s. 2567; 1993 a. 27 ss. 332, 334, 337, 340, 342; Stats. 1993 s. 252.15; 1993 a. 32, 183, 190, 252, 395, 491; 1995 a. 27 ss. 6323, 9116 (5), 9126 (19); 1995 a. 77, 275; 1997 a. 54, 80, 156, 188; 1999 a. 9, 32, 79, 151, 162, 188; 2001 a. 38, 59, 69, 74, 103, 105; 2003 a. 271.

15 **SECTION 116.** 253.10 (3) (c) 7. of the statutes is amended to read:

16 253.10 (3) (c) 7. If the woman considering an abortion is a minor, unless s.
17 48.375 (4) (a) 2. applies, the requirements to provide information to the woman under
18 subds. 1. to 6. apply ~~to also to~~ require provision of the information to the individual
19 whose consent is also required under s. 48.375 (4) (a) 1. If the woman considering
20 an abortion ~~has been adjudicated~~ is an individual adjudicated incompetent ~~under ch.~~
21 [✓] 880 in this state, the requirements to provide information to the woman under subds.

1 1. to 6. apply to also require provision of the information to the person appointed as
2 the woman's guardian.

History: 1985 a. 56, 176; 1991 a. 263; 1993 a. 27 s. 378; Stats. 1993 s. 253.10; 1995 a. 309; 1997 a. 27; 1999 a. 9.

INSERT 54-2

3 **SECTION 117.** 403.308 (1) of the statutes is amended to read:

4 403.308 (1) In an action with respect to an instrument, the authenticity of, and
5 authority to make, each signature on the instrument is admitted unless specifically
6 denied in the pleadings. If the validity of a signature is denied in the pleadings, the
7 burden of establishing validity is on the person claiming validity, but the signature
8 is presumed to be authentic and authorized unless the action is to enforce the liability
9 of the purported signer and the signer is dead or adjudicated incompetent at the time
10 of trial of the issue of validity of the signature. If an action to enforce the instrument
11 is brought against a person as the undisclosed principal of a person who signed the
12 instrument as a party to the instrument, the plaintiff has the burden of establishing
13 that the defendant is liable on the instrument as a represented person under s.
14 403.402 (1).

History: 1995 a. 449.

INSERT 54-10A

15 **SECTION 118.** 441.07 (1) (c) of the statutes is amended to read:

16 441.07 (1) (c) Acts ~~which~~ that show the registered nurse, nurse-midwife or
17 licensed practical nurse to be unfit or incompetent by reason of negligence, abuse of
18 alcohol or other drugs or mental ~~incompetency~~ illness.

History: 1977 c. 418; 1979 c. 317, 337; 1981 c. 162; 1983 a. 273 s. 8; 1985 a. 29, 340; 1987 a. 264; 1993 a. 138; 1995 a. 309; 1997 a. 237; 1999 a. 22.

****NOTE: DAK call DORL re this.

19 **SECTION 119.** 456.10 (1) (a) of the statutes is amended to read:

20 456.10 (1) (a) Proof is submitted that the licensee is unfit or incompetent by
21 reason of negligence, habits or other causes.

History: 1977 c. 418; 1979 c. 355; 1997 a. 237; 1999 a. 85.

2 ***NOTE: DAK call DOR *2* re this.

1 **SECTION 120.** 565.30 (2) of the statutes is amended to read:

2 565.30 (2) PAYMENT OF PRIZES TO MINORS. If the prize for a winning lottery ticket
3 or lottery share given to a minor is less than \$1,000, the administrator may make
4 payment of the prize by delivering to an adult member of the minor's family, or to the
5 minor's guardian, a check or draft payable to the minor. If the prize is \$1,000 or more,
6 the administrator shall make payment to the minor by paying or delivering the
7 money to a broker or financial institution under s. ~~880.65~~ 54.870 (1) (b).

History: 1987 a. 119, 399; 1989 a. 31; 1989 a. 56 s. 259; 1989 a. 359; 1991 a. 269; 1993 a. 16, 481; 1995 a. 27 ss. 6981j, 6981k, 9126 (19); 1995 a. 225, 404; 1997 a. 3, 27, 35; 1997 a. 148 ss. 3 to 5; 1997 a. 191; 1999 a. 9, 185, 194.

INSERT 54-10C

8 **SECTION 121.** 628.10 (1) of the statutes is amended to read:

9 628.10 (1) GENERAL. An intermediary's license issued under s. 628.04 remains
10 in force until it is revoked or limited under sub. (2), until it is suspended under sub.
11 (2) or s. 227.51 (3), until it is surrendered or until the licensee dies or is in this state
12 adjudicated incompetent, ~~as defined in s. 880.01~~ (4).

History: 1975 c. 371, 421; 1977 c. 363; 1979 c. 102; 1981 c. 38; 1991 a. 214; 1995 a. 27; 1997 a. 191, 237; 1999 a. 9, 30.

13 **SECTION 122.** 705.04 (2) of the statutes is amended to read:

14 705.04 (2) If the account is a P.O.D. account, on the death of the original payee
15 or the survivor of 2 or more original payees, any sums remaining on deposit belong
16 to the P.O.D. beneficiaries if surviving, or to the survivor of them if one or more die
17 before the original payee. Payment may be made to a minor P.O.D. beneficiary,
18 however, only in accordance with a procedure approved in ch. ~~880~~ 54. If 2 or more
19 P.O.D. beneficiaries survive, they shall be entitled to payment of the sums on deposit
20 in accordance with such written instructions as may have been filed with the
21 financial institution, and if none, to payment in equal shares. There is no right of
22 survivorship in the event of the death of one of 2 or more P.O.D. beneficiaries after


1 their entitlement to payment has matured unless the terms of the account expressly
2 provide for survivorship or for the account's continuance as a joint account.

3 History: 1973 c. 291; 1983 a. 186; 1985 a. 37 s. 187; 1995 a. 27 ss. 7065 to 7065c, 9126 (19); 1999 a. 9.

SECTION 123. 706.03 (4) of the statutes is amended to read:

4 706.03 (4) A conveyance by a minor or an individual adjudicated incompetent
5 in this state is effective only if executed by an authorized guardian on behalf of such
6 the minor or individual adjudicated incompetent. ~~In the case of a limited~~
7 ~~incompetency, such~~ This restriction does not apply if ~~an individual has been~~
8 ~~determined competent to make contracts under s. 880.33 (3) the individual's~~
9 adjudication of incompetency permits him or her to contract.

History: 1971 c. 228; 1975 c. 393; 1977 c. 428; 1989 a. 303; 1991 a. 16, 173; 1997 a. 140.

****NOTE: Please see the ****NOTE under the treatment of s. 51.40 (1)(g) 1. 

10 **SECTION 124.** 706.09 (1) (f) of the statutes is amended to read:

11 706.09 (1) (f) *Lack of authority of officers, agents or fiduciaries.* Any defect or
12 insufficiency in authorization of any purported officer, partner, manager, agent, or
13 fiduciary to act in the name or on behalf of any corporation, partnership, limited
14 liability company, principal, trust, estate, minor, individual adjudicated
15 incompetent, or other holder of an interest in real estate purported to be conveyed
16 in a representative capacity, after the conveyance has appeared of record for 5 years.

History: 1975 c. 94 s. 91 (16); 1979 c. 110; 1983 a. 186; 1987 a. 330; 1993 a. 112, 486, 496.

17 **SECTION 125.** 753.30 (1) of the statutes is amended to read:

18 753.30 (1) The clerk of circuit court shall keep the books and records under s.
19 59.40 (2) (a) to (i) and ch. 799 and perform the duties under s. 59.40 (2) (j) to (q) for
20 all matters in the circuit court except those under chs. 48, 54, and 851 to ~~880~~ 879.
21 In counties having only one circuit judge, the circuit judge, with the approval of the
22 chief judge of the judicial administrative district, may appoint the clerk of court
23 register in probate. The appointments are revocable at the pleasure of the circuit

1 judge. Appointments and revocations shall be in writing and shall be filed in the
2 office of the register in probate. If appointed for this purpose, the clerk has the
3 powers and duties of registers in probate. In prosecutions of ordinance violations in
4 the circuit court in counties having a population of 500,000 or more, an assistant
5 chief deputy clerk appointed under sub. (3) (a), or one of his or her deputies, shall
6 enter upon the records of the court a statement of the offense charged, which shall
7 stand as the complaint, unless the court directs formal complaint be made. The
8 defendant's plea shall be guilty or not guilty, and shall be entered as not guilty on
9 failure to plead, which plea of not guilty shall put all matters in such case at issue,
10 any other provisions of law notwithstanding.

History: 1977 c. 449; 1979 c. 32 s. 92 (16); 1995 a. 201; 1997 a. 311.

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11 **SECTION 126.** 757.48 (3) of the statutes is amended to read:

12 757.48 (3) No guardian ad litem may be permitted to receive any ~~money or~~
13 ~~property assets or income~~ of his or her ward, nor may any bond be required of a
14 guardian ad litem, but all ~~money or property of his or her~~ assets or income of the ward
15 may be paid or delivered to a general guardian of his or her property the ward's
16 guardian of the estate, subject to the exceptions of s. 880.04 54.12.

History: Sup. Ct. Order, 50 Wis. 2d vii (1971) 1971 c. 211; 1977 c. 187 s. 96; 1977 c. 299, 447; Stats. 1977 s. 757.48; 1987 a. 355; 1993 a. 16; 1995 a. 27; 2003 a. 130.

***NOTE: Is this provision amended as you wish? *OK*

17 **SECTION 127.** 757.69 (1) (h) of the statutes is amended to read:

18 757.69 (1) (h) Hear petitions for commitment and conduct probable cause
19 hearings under ss. 51.20, 51.45 and 55.06 (11), conduct reviews of guardianships
20 under ch. 54 and reviews of protective placements and protective services under ~~chs.~~
21 ch. 55 and 880, advise a person alleged to be mentally ill of his or her rights under
22 the United States and Wisconsin constitutions, and, if the person claims or appears
23 to be unable to afford counsel, refer the person to the authority for indigency

determinations specified under s. 977.07 (1) or, if the person is a child, refer that child to the state public defender, who shall appoint counsel for the child without a determination of indigency, as provided in s. 48.23 (4).

History: 1977 c. 323, 449; 1979 c. 32; 1979 c. 89; 1979 c. 209 s. 4; 1979 c. 352, 356; 1983 a. 279; 1985 a. 126, 202, 234, 332; 1987 a. 3, 27, 71, 378, 398; 1989 a. 7, 12, 31, 246; Sup. Ct. Order, 158 Wis. 2d xxv (1990); 1991 a. 39, 269; 1993 a. 318, 451, 481; 1995 a. 77; 1997 a. 191, 192, 292; 1999 a. 32; 2001 a. 16; 2001 a. 61 ss. 93 to 109, 173, 175, 177, 180; 2001 a. 105.

SECTION 128. 758.19 (6) (a) of the statutes is amended to read:

758.19 (6) (a) In this subsection, "guardian ad litem costs" means the costs of guardian ad litem compensation that a county incurs under ch. 48, 54, 55, 767, 880 or 938 or ch. 880, 2003 stats., that the county has final legal responsibility to pay, or that the county is unable to recover from another person and that does not exceed the per hour rate established for time spent in court by private attorneys under s. 977.08 (4m) (b).

History: 1971 c. 254 ss. 1, 2, 4 to 16; Stats. 1971 s. 257.19; 1975 c. 37, 189, 199; 1977 c. 29; 1977 c. 187 ss. 97, 135; 1977 c. 305 s. 64; 1977 c. 449; Stats. 1977 s. 758.19; Sup. Ct. Order, 88 Wis. 2d xiii (1979); 1981 c. 96; 1983 a. 27; 1985 a. 29, 340; 1989 a. 31; 1991 a. 32, 39; 1993 a. 16, 206, 437, 491; 1995 a. 27, 77, 201, 225, 417; 1997 a. 27, 237; 1999 a. 9, 29; 2001 a. 16; 2003 a. 33, 139.

SECTION 129. 758.19 (6) (d) 1. of the statutes is amended to read:

758.19 (6) (d) 1. The total cost of guardian ad litem compensation that the county incurred under chs. 48, 54, 55, 767, 880 and 938 and ch. 880, 2003 stats., in the previous calendar year.

History: 1971 c. 254 ss. 1, 2, 4 to 16; Stats. 1971 s. 257.19; 1975 c. 37, 189, 199; 1977 c. 29; 1977 c. 187 ss. 97, 135; 1977 c. 305 s. 64; 1977 c. 449; Stats. 1977 s. 758.19; Sup. Ct. Order, 88 Wis. 2d xiii (1979); 1981 c. 96; 1983 a. 27; 1985 a. 29, 340; 1989 a. 31; 1991 a. 32, 39; 1993 a. 16, 206, 437, 491; 1995 a. 27, 77, 201, 225, 417; 1997 a. 27, 237; 1999 a. 9, 29; 2001 a. 16; 2003 a. 33, 139.

SECTION 130. 758.19 (6) (d) 2. of the statutes is amended to read:

758.19 (6) (d) 2. The total guardian ad litem compensation that the county initially paid under chs. 48, 54, 55, 767, 880 and 938 and ch. 880, 2003 stats., and that was recovered in the previous calendar year by the county from another responsible person.

History: 1971 c. 254 ss. 1, 2, 4 to 16; Stats. 1971 s. 257.19; 1975 c. 37, 189, 199; 1977 c. 29; 1977 c. 187 ss. 97, 135; 1977 c. 305 s. 64; 1977 c. 449; Stats. 1977 s. 758.19; Sup. Ct. Order, 88 Wis. 2d xiii (1979); 1981 c. 96; 1983 a. 27; 1985 a. 29, 340; 1989 a. 31; 1991 a. 32, 39; 1993 a. 16, 206, 437, 491; 1995 a. 27, 77, 201, 225, 417; 1997 a. 27, 237; 1999 a. 9, 29; 2001 a. 16; 2003 a. 33, 139.

SECTION 131. 765.11 (1) of the statutes is amended to read:

1 765.11 (1) If any parent, grandparent, child, or natural guardian of a minor
2 applicant for a marriage license, any brother, sister, or guardian of either of the
3 applicants for a marriage license, either of the applicants, the district attorney, or a
4 circuit court commissioner believes that the statements of the application are false
5 or insufficient, or that ~~the applicants or either of them are~~ an applicant is adjudicated
6 incompetent without the right to marry, that person may file with the court having
7 probate jurisdiction in the county in which the marriage license is applied for, a
8 petition under oath, setting forth the grounds of objection to the marriage, and
9 asking for an order requiring the parties making ~~such~~ the application to show cause
10 why the marriage license should not be refused. Whereupon, the court, if satisfied
11 that the grounds of objection are prima facie valid, shall issue an order to show cause
12 as aforesaid, returnable as the court directs, but not more than 14 days after the date
13 of the order, which shall be served forthwith upon the applicants for the marriage
14 license residing in the state, and upon the clerk before whom the application has been
15 made, and shall operate as a stay upon the issuance of the marriage license until
16 further ordered; if either or both of the applicants are nonresidents of the state the
17 order shall be served ~~forthwith~~ immediately upon the nonresident by publication of
18 a class 1 notice, under ch. 985, in the county ~~wherein~~ in which the application is
19 pending, and by mailing a copy thereof to the nonresident at the address contained
20 in the application.

History: 1979 c. 32 s. 48; 1979 c. 176; Stats. 1979 s. 765.11; 1981 c. 20 ss. 1777v, 2200; 2001 a. 61.

21 **SECTION 132.** 766.51 (7) of the statutes is amended to read:

22 766.51 (7) A court may appoint a conservator or guardian under ch. 880 54 to
23 exercise a disabled spouse's right to manage and control marital property.

History: 1983 a. 186; 1985 a. 37; 1987 a. 393.

24 **SECTION 133.** 767.29 (3) (a) of the statutes is amended to read:

1 767.29 (3) (a) If maintenance payments or support money, or both, is ordered
2 to be paid for the benefit of any ~~person~~, individual who is committed by court order
3 to an institution or is in confinement, or whose legal custody is vested by court order
4 under ch. 48 or 938 in an agency, department ~~or~~, relative, or other entity, the court
5 or a circuit court commissioner may order ~~such~~ the maintenance payments or
6 support money to be paid to the relative ~~or~~, agency, institution, welfare department,
7 or other entity having the legal or actual custody of ~~said person~~ the individual, and
8 to be used for the latter's care and maintenance, without the appointment of a
9 guardian ~~under ch. 880~~ in this state.

History: 1971 c. 41 s. 12; Sup. Ct. Order, 67 Wis. 2d 585, 775 (1975); 1975 c. 82, 200; 1975 c. 401 s. 4; 1977 c. 105 s. 59; 1977 c. 271, 418, 447; 1979 c. 32 ss. 50, 92 (4); 1979 c. 257 s. 17; Stats. 1979 s. 767.29; 1981 c. 20 s. 2202 (20) (m); 1983 a. 27, 302; 1985 a. 29, 176; 1991 a. 39; 1993 a. 481; 1995 a. 27 ss. 7104tm, 9126 (19), 9130 (4); 1995 a. 77, 279, 289, 404; 1997 a. 27, 35, 105, 191, 252; 1999 a. 9; 2001 a. 16, 59, 61, 105.

10 **SECTION 134.** 786.01 of the statutes is amended to read:

11 **786.01 Conveyance of lands held in trust by persons under disability.**

12 Whenever any minor or ~~person~~ individual adjudicated incompetent ~~to manage his or~~
13 ~~her affairs~~ is seized or possessed of any lands or interest in any lands by way of
14 mortgage or in trust only for others, the circuit court of the proper county may, upon
15 the petition of the guardian of the minor or individual adjudicated incompetent
16 ~~person~~ or of any person in any way interested in the real estate, make an order
17 authorizing or compelling the minor or individual adjudicated incompetent ~~person~~
18 to convey and assure the lands or interest in the lands to any person entitled thereto,
19 in such manner as the court directs.

History: 1977 c. 449; 1979 c. 32 s. 63; Stats. 1979 s. 786.01.

20 **SECTION 135.** 786.02 of the statutes is amended to read:

21 **786.02 Specific performance of incompetent's contract.** A circuit court

22 may authorize or compel the specific performance of any contract made by any ~~person~~
23 ~~who becomes~~ individual who is adjudicated incompetent before the performance

1 ~~thereof of the contract~~, on the complaint or petition of the guardian of the individual
2 adjudicated incompetent ~~person~~ or of any other person interested in the contract.

History: 1977 c. 449; 1979 c. 32 s. 63; Stats. 1979 s. 786.02.

3 **SECTION 136.** 786.03 of the statutes is amended to read:

4 **786.03 Specific performance; order; appeal.** No order authorizing or
5 directing any such conveyance or the performance of any such contract shall be made
6 until after hearing the parties and being satisfied that such conveyance ought to be
7 made or such contract ought to be performed. The court may, by such order, direct
8 the guardian of such individual adjudicated incompetent ~~person~~, or a special
9 guardian appointed in such proceeding, to do any act which is necessary to carry such
10 order into effect. The court may further direct that the reasonable expenses of the
11 proceedings be paid out of the proceeds of the sale. No appeal shall lie from such
12 order unless notice of intention to appeal shall be filed with the court within 10 days
13 after date of the order. The court may enforce such order by any proper proceedings.

History: 1979 c. 32 s. 63; Stats. 1979 s. 786.03.

14 **SECTION 137.** 786.04 of the statutes is amended to read:

15 **786.04 Specific performance; conveyance; warranties.** The court may
16 require the guardian to convey the real estate which such individual adjudicated
17 incompetent ~~person~~ might or ought to have conveyed if still competent. Where such
18 ~~incompetent person~~ individual contracted before incompetency to convey real estate
19 by warranty deed, the guardian shall convey by warranty deed subject to any
20 exceptions set forth in the ~~incompetent's~~ individual's contract to convey. The
21 guardian shall not be personally liable because of any breach of such warranty, but
22 such warranty deed shall have the same effect for all purposes as if the individual
23 adjudicated incompetent had executed it at such time while competent. This section
24 is applicable where an individual adjudicated incompetent before incompetency

1 made an assignment of a contract to convey real estate but did not deed to the
2 assignee the title to the premises covered by the contract.

3 History: 1979 c. 32 s. 63; 1979 c. 176; Stats. 1979 s. 786.04.

SECTION 138. 786.05 of the statutes is amended to read:

4 **786.05 Specific performance; recording order; effect.** A certified copy of
5 such judgment directing such conveyance, which is recorded in the office of the
6 register of deeds in the county where the lands lie, shall be prima facie evidence of
7 the correctness of the proceedings and of the authority of the guardian to convey.
8 Every such conveyance shall be as effectual in passing the estate as if the individual
9 adjudicated incompetent were then competent and executed the conveyance.

10 History: 1979 c. 32 s. 63; Stats. 1979 s. 786.05.

SECTION 139. 786.06 (intro.) of the statutes is amended to read:

11 **786.06 Realty of wards; grounds for mortgage, sale, lease.** (intro.) Any
12 real estate, or interest therein belonging to a minor or to ^va ~~person~~ an individual
13 adjudicated incompetent ~~to manage personal affairs~~ may be sold, mortgaged or
14 leased:

15 History: 1979 c. 32 s. 63; 1979 c. 176; Stats. 1979 s. 786.06.

SECTION 140. 786.06 (1) of the statutes is amended to read:

16 786.06 (1) When the personal property and the income of the real estate of such
17 minor or individual adjudicated incompetent ~~person~~ are together insufficient for the
18 payment of his or her debts or for the maintenance and education of himself or herself
19 and family;

20 History: 1979 c. 32 s. 63; 1979 c. 176; Stats. 1979 s. 786.06.

SECTION 141. 786.06 (2) of the statutes is amended to read:

21 786.06 (2) When the interests of such minor or individual adjudicated
22 incompetent ~~person~~ require or will be substantially promoted by such disposition on

1 account of such real estate or interest therein being exposed to waste or dilapidation,
2 or being unproductive, or for other peculiar reasons or circumstances.

3 History: 1979 c. 32 s. 63; 1979 c. 176; Stats. 1979 s. 786.06.

3 **SECTION 142.** 786.07 of the statutes is amended to read:

4 **786.07 Realty of wards or incompetents individuals adjudicated**
5 **incompetent; application for sale or encumbrance.** The application for the
6 disposition must be made to the circuit court of the county in which the real estate
7 or some part thereof is situated or to the circuit court of the county in which the
8 ~~general~~ guardian for the minor or individual adjudicated incompetent ~~person~~ has
9 been appointed, by petition of the ~~general~~ guardian of the minor or of the ~~incompetent~~
10 ~~person~~ individual or by any relative or other person in behalf of either. The petition
11 must be verified and must set forth the facts which would authorize the selling,
12 mortgaging or leasing of the real estate or some part of the real estate for one or more
13 of the reasons set forth in s. 786.06. If the real estate sold or some part of the real
14 estate is situated in a county other than that in which the proceeding is taken, a
15 certified copy of the order confirming the sale containing the name of the purchaser,
16 the selling price and a description of the property sold shall be recorded in the office
17 of the register of deeds of the county in which the real estate or any part of the real
18 estate is situated. When the minor or individual adjudicated incompetent ~~person~~ has
19 a ~~general~~ guardian and the application is to any court other than the court in which
20 the ~~general~~ guardian was appointed, notice of hearing of the application shall be
21 given by mailing a copy of the notice to the judge of the court that appointed the
22 ~~general~~ guardian, and also to the ~~general~~ guardian, unless he or she is the petitioner,
23 at least 10 days before the date of the hearing.

24 History: 1977 c. 449; 1979 c. 32 ss. 63, 92 (14); Stats. 1979 s. 786.07.

24 **SECTION 143.** 786.08 (1) (a) of the statutes is amended to read:

1 786.08 (1) (a) When the application is made on behalf of a minor or individual
2 adjudicated incompetent, who has no ~~general~~ guardian, the court shall appoint some
3 suitable person special guardian of the minor or ~~incompetent~~ individual in the
4 proceeding; the special guardian shall give a bond to the judge of the court, to be filed
5 with the clerk of the circuit court, in such sum, with such sureties, and in such form
6 as the circuit court or judge directs, conditioned for the faithful performance of the
7 trust reposed, for paying over, investing or accounting for all moneys that shall be
8 received by the guardian, according to law and for observance of the directions of the
9 court in relation to the trust.

History: 1977 c. 449; 1979 c. 32 s. 63; Stats. 1979 s. 786.08.

10 **SECTION 144.** 786.08 (1) (b) of the statutes is amended to read:

11 786.08 (1) (b) When the minor shall have a ~~general~~ guardian, ~~such general~~ the
12 guardian may be appointed special guardian in said matter; or, ~~such general~~ the
13 guardian, as such, may be authorized and empowered to act in and conduct such
14 proceedings in the same manner, and with the same provisions as to an additional
15 ~~general~~ guardian's bond, as is provided in said proceedings for the conduct thereof
16 by the ~~general~~ guardian of individuals adjudicated incompetent persons.

History: 1977 c. 449; 1979 c. 32 s. 63; Stats. 1979 s. 786.08.

17 **SECTION 145.** 786.08 (2) of the statutes is amended to read:

18 786.08 (2) When the application is made on behalf of an individual adjudicated
19 incompetent ~~person~~, the guardian of the ~~incompetent person~~ individual shall, in the
20 discretion of the court, give a bond to the judge of the court to be filed with the clerk
21 of the circuit court, in such sum, additional to the guardian's original bond, as the
22 court deems necessary, with such sureties and such conditions for the faithful
23 performance of trust reposed as prescribed by this section.

History: 1977 c. 449; 1979 c. 32 s. 63; Stats. 1979 s. 786.08.

24 **SECTION 146.** 786.10 of the statutes is amended to read:

1 **786.10 Order for lease, mortgage, sale.** If, after an examination of the
2 matter by the court or judge to which application is made, without a reference, or on
3 the coming in of the report of the referee, and on examination of the matter, it shall
4 satisfactorily appear that a disposition of any part of the real estate of such minor
5 or individual adjudicated incompetent ~~person~~ or any interest therein is necessary
6 and proper, for any of the causes mentioned in s. 786.06 such court or judge shall
7 make an order directing and authorizing the guardian to contract for the leasing,
8 mortgaging, or sale of such real estate or interest therein or of such part thereof as
9 the court or judge shall deem proper in such manner and with such restrictions as
10 shall be deemed expedient.

History: 1979 c. 32 ss. 63, 92 (14); Stats. 1979 s. 786.10.

11 **SECTION 147.** 786.13 of the statutes is amended to read:

12 **786.13 Platting realty of wards before sale.** Whenever an order shall have
13 been made for the sale of any such real estate and it shall be made to appear to the
14 court or judge that the interest of the minor or other ward would be promoted by
15 platting such real estate the court or judge may, by order, authorize the guardian
16 either alone or together with the cotenants, if any, or other owners, to make and
17 acknowledge a plat of such real estate in the manner prescribed in ch. 236. A plat
18 made pursuant to such order, certified and acknowledged in manner and form
19 prescribed in ch. 236 and approved by the court or presiding judge, shall be as valid
20 and effectual as if made by ~~such~~ the minor when of full age or by ~~such incompetent~~
21 ~~person when of sound memory and understanding~~ the individual adjudicated
22 incompetent before the adjudication. After such plat shall have been duly made and

1 recorded such guardians may make separate sales of any lot or lots, according to such
2 plat, or of such ward's interest therein in the manner above prescribed.

3 **History:** 1979 c. 32 s. 63; Stats. 1979 s. 786.13.

SECTION 148. 786.14 of the statutes is amended to read:

4 **786.14 Realty of wards; will or conveyance not disregarded.** No real
5 estate or interest therein shall be sold, mortgaged or leased under the provisions of
6 this chapter contrary to the provisions of any will by which the same was devised or
7 of any conveyance by which the same was transferred to ~~such~~ the minor or individual
8 adjudicated incompetent person.

9 **History:** 1979 c. 32 s. 63; Stats. 1979 s. 786.14.

SECTION 149. 786.15 of the statutes is amended to read:

10 **786.15 Realty of wards, validity of the conveyance.** Every deed,
11 mortgage, lease or other conveyance made in good faith by the guardian of a minor
12 or individual adjudicated incompetent person, pursuant to any order or judgment of
13 a circuit court, made under the provisions of this chapter, shall be as valid and
14 effectual as if made by the minor when of full age or by the ~~incompetent person when~~
15 ~~of sound memory and understanding~~ individual adjudicated incompetent before the
16 adjudication.

17 **History:** 1977 c. 449; 1979 c. 32 s. 63; Stats. 1979 s. 786.15.

SECTION 150. 786.16 of the statutes is amended to read:

18 **786.16 Realty of wards; effect of sale; proceeds realty.** No sale of the real
19 estate of any minor or individual adjudicated incompetent person shall give to ~~such~~
20 ~~the minor or incompetent person~~ individual any other or greater interest or estate
21 in the proceeds of such sale than the minor or ~~incompetent person~~ individual had in
22 the estate so sold; but the said proceeds shall be deemed real estate of the same
23 nature as the property sold.

History: 1979 c. 32 s. 63; 1979 c. 176; Stats. 1979 s. 786.16.

1 **SECTION 151.** 786.17 (1) of the statutes is amended to read:

2 786.17 (1) The court shall make an order for the application and disposition of
3 the proceeds of any such sale or mortgage, and of the income derived from the
4 investment thereof and of the rent accruing upon any such lease, and direct the
5 investment of any portion thereof belonging to the minor or individual adjudicated
6 incompetent ~~person which~~ that is not needed for the payment of debts or the
7 immediate support of the ~~person~~ individual and the ~~person's~~ individual's family, so
8 as to secure the same for the benefit of the minor or ~~incompetent person~~ individual,
9 and shall direct a return of the investment to be made on oath as soon as possible,
10 and shall require accounts to be rendered periodically by any guardian or other
11 person who may be entrusted with the disposition of the proceeds or the income
12 thereof.

History: 1977 c. 449; 1979 c. 32 s. 63; Stats. 1979 s. 786.17.

13 **SECTION 152.** 786.18 (1) of the statutes is amended to read:

14 786.18 (1) If the real estate or interest therein of any minor or any individual
15 adjudicated incompetent ~~person which~~ that is directed to be sold is subject to an
16 estate for life or for years in the whole or any part thereof the order for the sale may,
17 in the discretion of the court or presiding judge, direct that such estate shall be sold,
18 with the reversionary estate or interest of the minor or ~~incompetent person~~
19 individual.

History: 1979 c. 32 s. 63; Stats. 1979 s. 786.18; 1985 a. 29.

20 **SECTION 153.** 786.19 of the statutes is amended to read:

21 **786.19 Ward's particular estate, disposition.** Where the interest of the
22 minor or individual adjudicated incompetent ~~person~~ in real estate consists of an
23 estate for life or for years the court or presiding judge may, by order, authorize the
24 guardian to join with the ~~person~~ individual holding the reversionary estate in a

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conveyance of the property to which such interest attaches, so as to fully convey the particular estate, on receiving from the proceeds of the sale a gross sum in satisfaction of such estate or such proceeds or the proper portion thereof to be invested, and the interest thereon paid to the ~~person~~ individual having ~~such~~ the estate until the termination thereof; in either case the amount to be ascertained as prescribed in s. 786.18. When the proceeds or a proportionate part of such proceeds is received by the guardian for investment, the order of the court or presiding judge must provide for the investment thereof until termination of the particular estate, and then for the payment thereof to the ~~person~~ individual entitled thereto.

History: 1979 c. 32 ss. 63, 92 (14); 1979 c. 176; Stats. 1979 s. 786.19.

****NOTE: The antiquated language of this provision make it exceedingly difficult to understand; have I amended it correctly? Yes

SECTION 154. 786.20 of the statutes is amended to read:

786.20 ~~Minor, or individual adjudicated incompetent,~~ ward of the court. From the time of application on behalf of a minor ~~or of an individual adjudicated incompetent person~~ having no guardian for the disposition of property the minor ~~or incompetent person~~ individual shall be considered the ward of the court in which the application is made, so far as it relates to property, its proceeds and income.

History: 1979 c. 32 s. 63; 1979 c. 176; Stats. 1979 s. 786.20.

****NOTE: Is this provision still valid, i.e., are there now adjudicated incompetents who do not have guardians? Repeal in comp part

SECTION 155. 786.21 of the statutes is amended to read:

786.21 Estate of individual adjudicated incompetent, management. The real estate of an individual adjudicated incompetent person ~~shall~~ may not be leased for more than 5 years, or mortgaged or disposed of otherwise than is authorized and directed by this chapter.

History: 1979 c. 32 s. 63; Stats. 1979 s. 786.21; 1997 a. 254.

1 **SECTION 156.** 786.25 (1) of the statutes is amended to read:

2 786.25 (1) If a minor or individual adjudicated incompetent person residing
3 outside this state owns any right, title, or interest in or to any real estate in this state
4 and has a guardian or conservator who has been appointed in the state, territory or,
5 district, or country where he or she resides and no guardian appointed in this state,
6 the foreign guardian or conservator may file a copy of the appointment,
7 authenticated so as to make the same receivable in evidence, in the circuit court for
8 the county in which the real estate of the minor or individual adjudicated
9 incompetent person is situated.

History: 1977 c. 449; 1979 c. 32 s. 63; Stats. 1979 s. 786.25; 1993 a. 486.

10 **SECTION 157.** 786.25 (2) of the statutes is amended to read:

11 786.25 (2) Upon filing of the appointment under sub. (1) and proper
12 application, the foreign guardian or conservator may be licensed by the court or
13 presiding judge to lease, mortgage, or sell the real estate of his or her ward in the
14 county under sub. (1), or any portion thereof, or interest therein, in the same manner
15 and upon the same terms and conditions and for the same purposes as prescribed in
16 this chapter in the case of a guardian appointed in this state. The court, or the
17 presiding judge thereof, may, upon the petition of such foreign guardian or
18 conservator, appoint some suitable person residing in this state, special guardian of
19 the minor or individual adjudicated incompetent person to make the lease, mortgage,
20 or sale in the manner provided by this chapter.

History: 1977 c. 449; 1979 c. 32 s. 63; Stats. 1979 s. 786.25; 1993 a. 486.

21 **SECTION 158.** 786.25 (3) of the statutes is amended to read:

22 786.25 (3) In case a special guardian shall be appointed the moneys arising
23 from such lease, mortgage or sale shall be paid out and disposed of or invested as may
24 be directed by the court or judge appointing such special guardian. The duly

1 authenticated copy of the appointment of any guardian or conservator appointed in
2 any other state, district, territory, or country together with a duly authenticated copy
3 of the appointment of the special guardian of such minor or individual adjudicated
4 incompetent person, shall also be properly recorded and tract indexed at the ward's
5 expense in the office of the register of deeds of the county in which such real estate
6 is situated.

History: 1977 c. 449; 1979 c. 32 s. 63; Stats. 1979 s. 786.25; 1993 a. 486.

7 **SECTION 159.** 801.11 (2) (intro.) of the statutes is amended to read:

8 801.11 (2) NATURAL PERSON UNDER DISABILITY. (intro.) Upon a natural person
9 under disability by serving the summons in any manner prescribed in sub. (1) upon
10 ~~such~~ the person under disability and, in addition, where required by par. (a) or (b),
11 upon a person therein designated. A minor 14 years of age or older who is not
12 ~~mentally~~ adjudicated incompetent and not otherwise under guardianship is not a
13 person under disability for purposes of this subsection.

History: Sup. Ct. Order, 67 Wis. 2d 585, 602 (1975); 1975 c. 218; 1977 c. 339 s. 43; 1979 c. 89, 102, 177; 1983 a. 192 s. 303 (2); 1985 a. 225; Sup. Ct. Order, 130 Wis. 2d
xix (1986); 1993 a. 112, 184, 265, 399, 491; 1997 a. 140; 1999 a. 32.

14 **SECTION 160.** 801.11 (2) (b) of the statutes is amended to read:

15 801.11 (2) (b) Where the person under disability is known by the plaintiff to be
16 under guardianship of any kind, a summons shall be served separately upon the
17 guardian in any manner prescribed in sub. (1), (5) or (6). If no guardian has been
18 appointed when service is made upon a person ~~known to~~ alleged by the plaintiff to
19 be incompetent to have charge of the person's affairs, then service of the summons
20 shall be made upon the guardian ad litem after appointment under s. 803.01.

History: Sup. Ct. Order, 67 Wis. 2d 585, 602 (1975); 1975 c. 218; 1977 c. 339 s. 43; 1979 c. 89, 102, 177; 1983 a. 192 s. 303 (2); 1985 a. 225; Sup. Ct. Order, 130 Wis. 2d
xix (1986); 1993 a. 112, 184, 265, 399, 491; 1997 a. 140; 1999 a. 32.

****NOTE: Have I amended this provision as you wish? 

21 **SECTION 161.** 802.10 (1) of the statutes is amended to read:

802.10 (1) APPLICATION. This section applies to all actions and special proceedings except appeals taken to circuit court; actions seeking the remedy available by certiorari, habeas corpus, mandamus, prohibition, and quo warranto; actions in which all defendants are in default; provisional remedies; and actions under ss. 49.90 and s. 66.0114 and chs. 48, 54, 102, 108, 227, 348, 767, 778, 799 and 812, and proceedings under chs. 851 to 882.

History: Sup. Ct. Order, 67 Wis. 2d 585, 634 (1975); 1975 c. 218; Sup. Ct. Order, 82 Wis. 2d ix (1978); 1979 c. 32 s. 92 (4); 1979 c. 89, 177; 1981 c. 289; 1985 a. 29 s. 3202 (23); Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1993 a. 486; Sup. Ct. Order No. 95-04, 191 Wis. 2d xxi (1995); 1999 a. 150 s. 672; 2001 a. 30 s. 108.

SECTION 162. 803.01 (3) (title) of the statutes is amended to read:

803.01 (3) (title) INFANTS MINORS OR INDIVIDUALS ALLEGED OR ADJUDICATED INCOMPETENT PERSONS.

History: Sup. Ct. Order, 67 Wis. 2d 585, 638 (1975); 1975 c. 218; 1977 c. 299, 449; 1981 c. 317; 1993 a. 481; 1997 a. 35; 2001 a. 61, 102.

SECTION 163. 803.01 (3) (a) of the statutes is amended to read:

803.01 (3) (a) *Appearance by guardian or guardian ad litem.* If a party to an action or proceeding is a minor, or if ~~the court has reason to believe that~~ a party is mentally adjudicated incompetent or alleged to be incompetent to have charge of the party's affairs ~~under the requirements of s. 54.10(3)~~, the party shall appear by an attorney, by the ~~general~~ guardian of the ~~party's property~~ estate of the party who may appear by attorney, or by a guardian ad litem who may appear by an attorney. A guardian ad litem shall be appointed in all cases ~~where~~ in which the minor or individual alleged to be incompetent has no ~~general~~ guardian of ~~property~~ the estate, or ~~where~~ in which the ~~general~~ guardian fails to appear and act on behalf of the ward or individual adjudicated incompetent, or ~~where~~ in which the interest of the minor or individual adjudicated incompetent is adverse to that of the ~~general~~ guardian. Except as provided in s. 807.10, if the ~~general~~ guardian does appear and act and the interests of the ~~general~~ guardian are not adverse to the minor or individual adjudicated incompetent, a guardian ad litem ~~shall~~ may not be appointed. Except